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151

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 228.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

NANCY HUNT, EXECUTRIX OF F. S. HUNT, DECEASED, JOSHUA GREEN, JOHN ROBINSON, AND H. C. DANIELS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

FILED AUGUST 11, 1879.

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1 UNITED STATES OF AMERICA,
Southern District of Mississippi:

Pleas and proceedings had and done at a regular term of the circuit court of the United States for the southern district of Mississippi (fifth circuit), begun and held, pursuant to law, in the court-room of said court, in the city of Jackson, in said district, on the first Monday, being the fifth day, of May, in the year of our Lord one thousand eight hundred and seventy-nine.

Present and presiding, the honorable R. A. Hill, U. S. district judge for Mississippi.

Present, also, Luke Lea, U. S. attorney; Thos. W. Hunt, U. S. marshal; and James M. McKee, clerk.

UNITED STATES
v.
FIDELIO S. HUNT ET ALS. } 1404.

Be it remembered that heretofore, to wit, on the 21st day of October, A. D. 1871, the following declaration was filed, to wit:

2 UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

In the circuit court of the United States for the southern district of Mississippi, to the November term thereof, A. D. 1871.

THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT, JOSHUA GREEN, JOHN ROBINSON, WILLIAM B. TAYLOR, HENRY C. DANIEL, LIVINGSTON MIMS, and WILLIAM I. BRACEY.

The United States of America, plaintiff, by E. P. Jacobson, attorney of the United States in and for said district, complains of Fidelio S. Hunt, Joshua Green, John Robinson, William B. Taylor, Henry C. Daniel, Livingston Mims, and William I. Bracey, defendants, who are residents of said district, and found therein, of a plea that they render unto said plaintiff the sum of fifty thousand dollars, which they owe to and unjustly detain from said plaintiff. For that said defend-
3 ants heretofore, to wit, on the twenty-fifth day of June, in the year one thousand eight hundred and sixty-six, at the district aforesaid, made and executed their certain writing obligatory, the date whereof is the day and year aforesaid, and sealed with the seals of the said defendants, a copy whereof, certified according to law, is now to the court here shown, whereby the said defendants acknowledge themselves to be held and firmly bound unto the said plaintiff in the sum of fifty thousand dollars, for the payment whereof well and truly to be made the said defendants, by said writing obligatory, bound themselves jointly and severally, their joint and several heirs, executors, and administrators. And to the said writing obligatory there was annexed a condition in the words and figures to wit:

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said

Fidelio S. Hunt collector of taxes under an act entitled "An act to provide internal revenue to support the government, to pay interest
4 on the public debt, and for other purposes:" Now, therefore, if the said Fidelio S. Hunt shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

And plaintiff avers that the aforesaid writing obligatory, after the execution thereof, was delivered to the said plaintiff and filed in the Treasury Department of the United States, a duly certified copy whereof is filed herewith, marked Exhibit A. And the plaintiff says that the said Fidelio S. Hunt was duly appointed to, and did, on
5 the day and year aforesaid, accept the office of collector of taxes, and then and there entered into and upon the discharge of the duties thereof as such collector, and continued therein to act and exercise the functions of said office for a long period of time, to wit, from said date until on or about the thirty-first day of March, in the year one thousand eight hundred and sixty-seven; that during the time of his continuance in said office, to wit, on the day and year last hereinbefore mentioned, there was in the hands of the said Fidelo S. Hunt, as collector of taxes aforesaid, a large sum of money, to wit, one hundred and forty-five thousand nine hundred and sixty-nine & $\frac{51}{100}$ dollars, being a balance of money that had before that time came into the hands of said Fidelio S. Hunt, as collector as aforesaid, for and on account of taxes due to the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to pay over to the United States in the manner prescribed in the orders
6 and regulations of the Secretary of the Treasury of the United States for the time being.

And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the thirty-first day of March, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive, for the use and benefit of the said United States, a large sum of money, to wit, one hundred and forty-five thousand nine hundred and sixty-nine $\frac{51}{100}$ dollars, for and on account of taxes due to the United States, for which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to account with the United States in the manner prescribed in the orders and regu-
7 lations of the Secretary of the Treasury of the United States for the time being.

And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the thirty-first day of March, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive, for the use and benefit of the said United States,

a large sum of money, to wit, one hundred and forty-five thousand nine hundred and sixty-nine $\frac{51}{100}$ dollars, the same being public moneys of the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to pay over to the United States in the manner prescribed in the orders and regulations of the Secretary of the Treasury of the United States for the time being.

8 And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the thirty-first day of March, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive, for the use and benefit of the said United States, a large sum of money, to wit: One hundred and forty-five thousand nine hundred and sixty-seven $\frac{51}{100}$ dollars, the same being public moneys of the United States, for which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to account with the United States in the manner prescribed in the orders and regulations of the Secretary of the Treasury of the United States for the time being.

9 And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the thirty-first day of March, in the year one thousand eight hundred and sixty-seven, he became indebted to the United States in the sum of one hundred and forty-five thousand nine hundred and sixty-nine $\frac{51}{100}$ dollars, received by him, said Hunt, at or before that time as such collector, for and on account of taxes due to the United States, which said sum is a balance reported to be due from said Hunt, as such collector, to the United States, upon the adjustment of his said, Hunt's, account as such collector in the Treasury Department of the United States, a duly certified copy of which said account is herewith filed, marked Exhibit B; which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly refused

10 and neglected, and still doth refuse and neglect justly, and faithfully to pay into the Treasury of the United States.

Wherefore the plaintiff avers that the condition of the said writing obligatory has become and is broken and forfeited in this, that the said Fidelio S. Hunt did not truly and faithfully execute and discharge all the duties of the said office according to law, or justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which came into his hands or possession.

Whereby and by reason of the said several breaches of the condition of the said writing obligatory by the said defendant Fidelio S. Hunt, an action hath accrued to the plaintiff to have and demand of the said defendants the said sum of money above demanded, to wit,

11 the sum of fifty thousand dollars, and interest thereon from the thirty-first day of March, in the year one thousand eight hundred and sixty-seven, and costs of this suit; yet the said defendants, and each of them, have hitherto wholly failed and refused to pay the said sum of money, or any part thereof, although often requested so to do, and still refuse to pay the same, and therefore plaintiff brings this suit.

E. P. JACOBSON,
Attorney of the United States for the Southern District of Mississippi.

(Endorsed as follows:) In the circuit court of the United States for the southern district of Mississippi. 1404. The United States vs. Fidelio S. Hunt et al. Declaration and two exhibits. E. P. Jacobson, att'y for the United States.

And on the 21st day of October, A. D. 1871, the following
12 summons was issued, which, with the return of the marshal thereon, is in words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi, sc:

The President of the United States to the marshal of the southern district of Mississippi, greeting:

We command you, without delay, to summon Fidelio S. Hunt, Joshua Green, John Robinson, William B. Taylor, Henry C. Daniel, Livingston Mims, and William J. Bracey, defendants, who reside in said district and are citizens of the State of Mississippi, that they be and appear at the circuit court of the United States, to be held at the city of Jackson, in and for the southern district of Mississippi, on the first Monday of November next, to answer to the United States of a plea that they render to the plaintiff the sum of fifty thousand dollars, which they owe to and unjustly detain from the plaintiff, to plaintiff's damage fifty thousand dollars, and interest from 31 March, 1867,
13 and that they do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default; and have then there this writ, and how you have executed the same.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at Jackson, the first Monday of May, A. D. 1871, and in the 96th year of the Independence of the United States of America.

Issued 21st day of October, 1871.

[SEAL.] GEO. T. SWANN, *Clerk.*

This suit is founded on the official bond of defendant Hunt, as collector of internal revenue for the 2d coll. dist. of Miss., dated June 25, 1866, with the other defendants, sureties thereto, and is brought to recover said penalty and costs.

GEO. T. SWANN, *Clk.*

Executed by personal service and delivering to each of the following defendants a true copy of this summons: Fidelio S. Hunt, Joshua Green, and Wm. B. Taylor, this 26th day of October, A. D. 1871; and by personal service and copy upon Henry C. Daniel, this 30th day of October, A. D. 1871.

14 M. SHAUGHNESSY, *U. S. M.*
J. J. GAINEY,
Deputy U. S. Marshal.

Not executed upon the within named Livingston Mims, he not being a resident of my district, and Wm. J. Bracey, he being dead.

M. SHAUGHNESSY, *U. S. M.*,
J. J. GAINEY, *Deputy.*

OCT. 30TH, 1871.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

U. S. MARSHAL'S OFFICE,
Jackson, Miss., Oct. 31st, 1871.

I hereby nominate and appoint Frank Babcock my special deputy to execute and return the within process according to law.

Witness my hand and seal this 1st day of Oct., 1871.

M. SHAUGHNESSY, [SEAL.]
U. S. Marshal, Southern District of Mississippi.

Executed this 31st day of October, A. D. 1871, by personal service on John Robinson, and delivery of a true copy of the within writ to him.

H. SHAUGHENSSY, *U. S. M.*,
By FRANK BABCOCK,
Special Deputy, U. S. M.

15 (Endorsed as follows): No. 1404. Circuit court U. States, to November term, 1871. United States vs. Fidelio S. Hunt et al. Defendant in Hinds County. E. P. Jacobson, plaintiff's att'y.

And on the 27th day of January, A. D. 1872, defendants filed their demurrer in the words and figures following, to wit:

Circuit court United States, southern district of Mississippi.

UNITED STATES
vs.
FIDELIO S. HUNT ET AL. } No. 1404.

And the said defendants F. S. Hunt, Joshua Green, & Wm. B. Taylor, John Robinson, H. C. Daniel, come & defend, &c., and crave oyer of the writing obligatory in the plaintiff's declaration mentioned, which is read to them in the words & figures to wit: (Insert bond.)

16 And thereupon defendants come & say that they are not bound in law to make any other or further plea to the declaration in this behalf, wherefore they demur to the same as being insufficient in law to entitle plaintiff to judgment against them, and assign the following special cause of demurrer:

1st. The said Hunt, before entering on the discharge of his duties, did not take the oath required by law to support the Constitution of the United States.

W. & J. R. YERGER, *Att'ys.*

And the said United States say that the declaration is sufficient in law.

E. P. JACOBSON,
Attorney of the United States.

(Endorsed as follows:) 1404. United States vs. F. S. Hunt et al. Demurrer. W. & J. R. Yerger.

17 And on the 11th day of March, 1872, the following order was made and entered in said cause, to wit:

THE UNITED STATES
vs.
FIDELIO S. HUNT ET AL. } 1404.

Came the district attorney for the United States, and the defendants

F. S. Hunt, Joshua Green & Wm. B. Taylor, John Robinson, & H. C. Daniel, by their attorneys, and the demurrer of said defendants to the declaration being argued by counsel, and the court fully advised thereon, it is considered by the court, and so ordered, that the said demurrer be, and the same is hereby, overruled, and leave is granted the defendants to plead over until the next regular term of this court.

And on the 14th day of May, 1872, defendant Hunt filed his pleas, which are in the words and figures following, to wit:

In the circuit court of the United States for the southern district of Mississippi, ss.

FIDELIO S. HUNT ET ALS. *ads.* THE UNITED STATES. } 1404.

18 And the said defendant Hunt, by his attorneys, comes and craves over of the said supposed writing obligatory & of the said supposed condition thereof, & they are read to him in these words, to wit: (Here insert the same.)

1. And thereupon the said defendant Hunt, by his attorneys, comes & defends the wrong & injury, when, &c., & says that said plaintiff the said action thereof against him to have or maintain ought not, because he says that he did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by law to support the Constitution of the United States; & of this he puts himself upon the country, &c.

W. & J. R. YERGER,
Att'ys for Hunt.

2d. And for a further plea the said Hunt says actio non, because he says the said condition of said supposed writing obligatory has not become & is not broken or forfeited in manner & form as in said
19 supposed breaches in said declaration, or any of them, is alleged, but, on the contrary thereof, he, this defendant, did justly & faithfully account for and pay over to said plaintiff, in compliance with the orders & regulations of the Secretary of the Treasury of said United States, all public moneys which came into his hands or possession as such tax-collector, at, to wit, at said district; and this he prays may be inquired of by the country, &c.

W. & J. R. YERGER,
Att'ys for Hunt.

3. And for a further plea the said Hunt says actio non, because he says he did not, as such collector of taxes, collect, receive, or have in his possession said sums of money in said declaration mentioned, nor any of them, nor any part thereof, for or on account of taxes due the United States, or for the use or benefit of said United States, or as public moneys thereof; nor was this defendant, as such collector, indebted, or reported to be indebted, to said United States in said sum of one hundred & forty-five thousand nine hundred & sixty-
20 nine $\frac{51}{100}$ dollars, for moneys received by him for or on account of taxes, or any part thereof, as in said declaration alleged; and of this he puts himself upon the country, &c.

W. & J. R. YERGER,
Att'ys for Hunt.

4th. And for a further plea the said Hunt says actio non, because he says the said supposed writing obligatory was not delivered as in said declaration alleged; & of this he puts himself upon the country, &c.

W. & J. R. YERGER,
Att'ys for Hunt.

5th. And for a further plea the said Hunt says actio non, because he says that he is not indebted & does not owe to the said plaintiff said sums of money in said declaration above demanded, nor any or either of them, nor any part thereof; & of this he puts himself upon the country, &c.

W. & J. R. YERGER,
Att'ys for Hunt.

(Endorsed as follows:) 1404. Circuit c't U. S., so' dist. Miss. The United States vs. F. S. Hunt als. Pleas of Hunt. Yergers.

21 And on the 14th day of May, 1872, defendants Green, Robinson, Taylor, and Daniel filed their pleas in words and figures following, to wit:

In the circuit court of the United States for the southern district of Mississippi, ss.

FIDELIO S. HUNT ET ALS. *ads.* THE UNITED STATES. } No. 1404.

1st. And now the said Joshua Green, John Robinson, William B. Taylor, & Henry C. Daniel, part of the defendants in said above-named suit, by their attorneys, come & crave oyer of the said supposed writing obligatory, & of the said supposed condition thereof, & they are read to them in these words, to wit: (Here insert the same.)

1st. And thereupon the said defendants Green, Robinson, Taylor, & Daniel, by their attorneys, say the said plaintiff, the aforesaid action thereof to have or maintain ought not, because they say that said Hunt did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by law to
22 support the Constitution of the United States; and this they pray may be inquired of by the country.

W. & J. R. YERGER,
Att'ys for said Defendants.

2d. And for a further plea the said last-named defendants say actio non, because they say the said condition of said supposed writing obligatory has not become & and is not broken or forfeited in manner & form as the said plaintiff in the said declaration & in the several alleged breaches, or any of them in said declaration set forth, hath alleged, but, on the contrary thereof, said defendants aver that said Hunt did justly and faithfully account for & pay over to the said plaintiff, in compliance with the orders & regulations of the Secretary of the Treasury of said United States, all public moneys which came into his hands or possession as such tax-collector, at, to wit, at the district aforesaid; & this they pray may be inquired of by the country.

W. & J. R. YERGER,
Att'ys for said Defendants.

23 3d. And for a further plea the said last-named defendants say actio non, because they say the said Hunt did not, as such collector of taxes, collect, receive, or have in his hands or possession said sums of money in said declaration mentioned, nor any or either of them, nor any part thereof, for or on account of taxes due the United States, or for the use or benefit of said United States, or as public moneys thereof; nor was said Hunt, as such collector, indebted, or reported to be indebted, to said United States in said sum of one hundred & forty-five thousand nine hundred & sixty-nine $\frac{51}{100}$ dollars, for moneys received by him for or on account of taxes, or any part thereof, as in said declaration alleged; and of this they put themselves upon the country.

W. & J. R. YERGER,
Att'ys for said Def'ts.

4th. And for a further plea the said last-named defendants say actio non, because they say the said supposed writing obligatory was not delivered to said plaintiff, as in said declaration alleged & of this
24 they put themselves upon the country.

W. & J. R. YERGER,
Att'ys for said Def'ts.

5th. And for a further plea the said last-named defendants say actio non, because they say that said Hunt is not indebted & does not owe to said plaintiff said sums of money in said declaration demanded, nor any or either of them, nor any part thereof; & of this they put themselves upon the country.

W. & J. R. YERGER,
Att'ys for said Def'ts.

(Endorsed as follows:) 1404. Circuit c't. U. S., so. dist. Miss. The United States vs. F. S. Hunt als. Pleas of part of sureties. Yergers.

And on the 20th day of May, 1872, being a day of the regular May term, 1872, of said court, the following order was made, to wit:

THE UNITED STATES
vs. } 1404.
F. S. HUNT ET AL.

Continued for the defendants:

25 And on May 5th, 1873, being a day of the regular May term, 1873, of said court, the following order was made in said cause, to wit:

U. STATES
vs. } 1404.
F. S. HUNT ET AL.

Continued.

And on the 13th day of November, 1873, the following motion was filed and entered in said cause, to wit:

Motion to amend declaration.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

In the circuit court of the United States in and for the southern district of the State of Mississippi, at the June adjourned term thereof, in the year one thousand eight hundred and seventy-three.

UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

Now comes the attorney of the United States for said court
26 and district and moves the honorable court for permission to amend the declaration filed in this cause by making the following changes, or either of them, to wit:

First. To declare on the tax-lists and other items of debit receipted for by, and chargeable to, the defendant Fidelio S. Hunt, as collector of internal revenue, under his official bond, filed by certified copy in this cause.

Second. To withdraw the certified copy of the revenue account of the said defendant Hunt, as adjusted by the Treasury Department, now filed with the declaration, and to file in lieu thereof a duly certified transcript of a revenue account, adjusted at the United States Treasury, between the United States and F. S. Hunt, defendant, as collector of internal revenue; said last account covering the period of Hunt's term of office as collector under the official bond as filed in this cause.

FELIX BRANNIGAN,
U. S. Attorney.

27 And on the 29th day of November, 1873, the following order was made and entered of record in said cause, to wit:

UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

Ordered by the court that this cause, together with the pending motion by the district attorney filed herein at the present term, be, and the same is hereby, continued to an adjourned session of this court to be held on the fourth Monday in January next (1874).

And on the 28th day of February, 1874, the following order was made and entered of record in said cause, to wit:

Order on motion of district att'y.

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

The attorney of the United States, Felix Brannigan, upon application by him made in that behalf, is now allowed to amend the declaration filed in this cause by making the following amendment, viz:

28 First. To withdraw the Treasury transcript, marked Exhibit B,

filed as part of said declaration, and to file in lieu thereof an adjusted account of Fidelio S. Hunt by the Treasury Department of the United States, marked Exhibit C, the latter being the adjusted account of said Hunt, as collector of internal revenue, under the bond sued on in this cause, the said account being numbering 8689, dated Treasury Department, Fifth Auditor's Office, January 22, 1874.

Second. To strike out of each count of the declaration now on file in this cause, wherein they occur, the words "thirty-first day of March, in the year one thousand eight hundred and sixty-seven," and to insert in lieu thereof the words following, viz: "Twenty-third day of May, in the year one thousand eight hundred and sixty-seven."

Third. To strike out of each count of the declaration now on file in this cause, wherein they occur, the words and figures "one hun-
29 dred and forty-five thousand nine hundred and sixty-nine $\frac{51}{100}$ dollars," and to insert in lieu thereof the words and figures following, to wit, "One hundred and thirty-nine thousand eight hundred and six and $\frac{76}{100}$ dollars."

And it is further ordered, on agreement made between the said attorney for the United States and Judge Potter, attorney for the defendants in this cause, that the aforesaid Exhibit B remain in the files of this court.

R. A. HILL, *Judge.*

And on the 20th day of March, 1874, the amended declaration of plaintiff was filed in said cause, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

In the circuit court of the United States for the southern district of Mississippi, to the November term thereof, A. D. 1871.

30 THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT, JOSHUA GREEN, JOHN ROBINSON, WILLIAM B. TAYLOR, HENRY C. DANIEL, LIVINGSTON MIMS and WILLIAM I. BRACEY.

The United States of America, plaintiff, by E. P. Jacobson, attorney of the United States in and for said district, complains of Fidelio S. Hunt, Joshua Green, John Robinson, William B. Taylor, Henry C. Daniel, Livingston Mims, and William I. Bracey, defendants, who are residents of said district, and found therein, of a plea that they render unto said plaintiff the sum of fifty thousand dollars which they owe to and unjustly detain from said plaintiff, for that said defendants heretofore, to wit, on the twenty-fifth day of June, in the year one thousand eight hundred and sixty-six, at the district aforesaid, made and
31 executed their certain writing obligatory, the date whereof is the day and year aforesaid, and sealed with the seals of the said defendants, a copy whereof, certified according to law, is now to the court here shown, whereby the said defendants acknowledged themselves to be held and firmly bound unto the said plaintiff in the sum of fifty thousand dollars, for the payment whereof well and truly to be made the said defendants, by said writing obligatory, bound themselves jointly and severally, their joint and several heirs, executors, and administrators; and to the said writing obligatory there was annexed, a condition in the words and figures following, to wit:

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said Fidelio S. Hunt collector of taxes, under an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes:" Now, therefore, if
32, 33 the said Fidelio S. Hunt shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public money, which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

And plaintiff avers that the aforesaid writing obligatory, after the execution thereof, was delivered to the said plaintiff and filed in the Treasury Department of the United States, a duly certified copy whereof is filed herewith, marked Exhibit A; and the plaintiff says that the said Fidelio S. Hunt was duly appointed to, and did, on the day and year aforesaid, accept the office of collector of taxes, and then
34 and there entered into and upon the discharge of the duties thereof as such collector, and continued therein to act and exercise the functions of said office for a long period of time, to wit, from said date until on or about the twenty-third day of May, in the year one thousand eight hundred and sixty-seven; that during the time of his continuance in said office, to wit, on the day and year last hereinbefore mentioned, there was in the hands of the said Fidelio S. Hunt, as collector of taxes aforesaid, a large sum of money, to wit, one hundred and thirty-nine thousand eight hundred and six $\frac{76}{100}$ dollars, being a balance of money that had before that time come into the hands of said Fidelio S. Hunt, as collector as aforesaid, for and on account of taxes due to the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to pay over to the United States in the manner prescribed in the orders
35 and regulations of the Secretary of the Treasury of the United States for the time being.

And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive, for the use and benefit of the said United States, a large sum of money, to wit, one hundred and thirty-nine thousand eight hundred and six $\frac{76}{100}$ dollars, the same being public moneys of the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to pay over to the United States in the manner prescribed in the orders and regulations of
36 the Secretary of the Treasury of the United States for the time being.

And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred

and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive, for the use and benefit of the said United States, a large sum of money, to wit, one hundred and thirty-nine thousand eight hundred and six $\frac{76}{100}$ dollars, the same being public moneys of the United States, for which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to account with the United States in the manner prescribed in the orders and regulations of the Secretary of the Treasury of the United States for the time being.

37 And for assigning a further breach of the said condition of the said writing obligatory the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, he became indebted to the United States in the sum of one hundred and thirty-nine thousand eight hundred and six $\frac{76}{100}$ dollars, received by him, said Hunt, before that time, as such collector, for and on account of taxes due to the United States, which said sum is a balance reported to be due from said Hunt as such collector to the United States upon the adjustment of his, said Hunt's, account as such collector in the Treasury Department of the United States, a duly certified copy of which said account is herewith filed, marked Exhibit C, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly refused and neglected, and

38 still doth neglect and refuse, justly and faithfully to pay into the Treasury of the United States.

Wherefore the plaintiff avers that the condition of the said writing obligatory has become and is broken and forfeited in this, that the said Fidelio S. Hunt did not truly and faithfully execute and discharge all the duties of the said office according to law, or justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which came into his hands or possession.

Whereby and by reason of the said several breaches of the condition of the said writing obligatory by the said defendant Fidelio S. Hunt an action has accrued to the plaintiff to have and demand of the said defendants the said sum of money above demanded, to wit, the

39 sum of fifty thousand dollars, and interest thereon from the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, and costs of this suit; yet the said defendants, and each of them, have hitherto wholly failed and refused to pay the said sum of money, or any part thereof, although often requested so to do, and still refuse to pay the same, and therefore plaintiff brings this suit.

E. P. JACOBSON,
Attorney of the United States for the Southern District of Miss.

This amended declaration is filed this 20th day of March, A. D. 1874, by permission of the court, as per order of court made at a special term thereof commenced on the fourth Monday in January, 1874, q. v.

FELIX BRANNIGAN,
Attorney of the United States for the Southern Dist. of Miss.

40 And on the 28th day of May, 1874, defendant Hunt filed the following pleas to the amended declaration, to wit:

In the circuit court of the United States for the southern district of Mississippi, ss.

FIDELIO S. HUNT ET ALS. *ads.* THE UNITED STATES. } 1404.

And the said defendant Fidelio S. Hunt, by attorney, comes & craves oyer of the said supposed writing obligatory & of the said supposed condition thereof, & they are read to him in these words, to wit: (Here insert the same.)

1. And thereupon the said Hunt, by his attorneys, comes & defends the wrong & injury, when, &c., & says that said plaintiff the said action thereof against him to have or maintain ought not, because he says that he did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by
41 law to support the Constitution of the United States; and of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Defendant Hunt.

2d. And for a further plea the said Hunt says actio non, because he says the said condition of supposed writing obligatory has not become & is not broken or forfeited in manner & form as in said supposed breaches in said declaration, or any of them, is alleged, but, on the contrary thereof, he, this defendant, did justly and faithfully account for & pay over to said plaintiff, in compliance with the orders & regulations of the Secretary of the Treasury of said United States, all public moneys which came into his hands or possession as such tax-collector, at, to wit, at the district aforesaid; and this he prays may be inquired of by the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

3d. And for a further plea the said Hunt says actio non, be-
42 cause he says he did not, as such collector of taxes, collect, receive, or have in his possession said sum of money in said declaration mentioned, nor any part thereof, for or on account of taxes due the United States, or for the use or benefit of said United States, or as public moneys thereof; nor was this defendant, as such collector, indebted or reported to be indebted to said United States in said sum of $139,806.76 for moneys received by him for or on account of taxes, or any part thereof, as in said declaration alleged; & of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

4th. And for a further plea the said Hunt says actio non, because he says that said supposed writing obligatory was not delivered as in said declaration alleged; & of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

43 5th. And for a further plea the said Hunt says actio non, because he says that he is not indebted & does not owe the said plaintiff said sums of money in said declaration above demanded, nor any nor either of them, nor any part thereof; & of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

6th. And for a further plea the said defendant Hunt says actio non, because he says he did not continue in said office of collector, nor continue to act therein, until on or about said 23d day of May, in the year 1867, nor in any manner & form as in said declaration alleged; & of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

7th. And for a further plea said Hunt says actio non, because he says said alleged writing obligatory was not approved as by law required; & of this he puts himself upon the country, &c.

GEO. L. POTTER,
Att'y for Hunt.

44 And on said 28th day of May, 1874, defendants Green, Robinson, Taylor, and Daniel filed the following pleas to the amended declaration, to wit:

THE UNITED STATES OF AMERICA,
Southern District of Mississippi:

In the circuit court thereof.

FIDELIO S. HUNT ET ALS. *ads.* THE UNITED STATES. } No. 1404.

And now the said Joshua Green, John Robinson, William B. Taylor, & Henry C. Daniel, part of the defendants in said above-named suit, by attorney, come & crave oyer of the said supposed writing obligatory & of the said supposed condition thereof; & they are read to them in these words, to wit: (Here insert the same.)

1st. And thereupon the said defendants Green, Robinson, Taylor, & Daniel, by their attorney, say the said plaintiff the aforesaid action thereof to have or maintain ought not, because they say that
45 said Hunt did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by law to support the Constitution of the United States; & this they pray may be inquired of by the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts above named.

2d. And for a further plea the said last-named defendants say actio non, because they say the said condition of said supposed writing obligatory has not become & is not broken or forfeited in manner & form as the said plaintiff in the said declaration & in the said several alleged breaches, or any of them in said declaration set forth, hath alleged: but, on the contrary thereof, said defendants aver that said Hunt did

justly and faithfully account for & pay over to said plaintiff, in compliance with the orders and regulations of the Secretary of the Treasury of said United States, all public moneys which came into his
46 hands or possession as such tax-collector, at, to wit, at the district aforesaid; & this they pray may be inquired of by the country, &c.

GEO. L. POTTER,
Att'y for s'd Df'ts.

3d. And the said defendants last named, for a further plea, say actio non, because they say the said Hunt did not, as such collector of taxes, collect, receive, or have in his hands or possession said sums of money in said declaration mentioned, nor any or either of them, nor any part thereof, for or on account of taxes due the United States, or for the use or benefit of said United States, or as public moneys thereof; nor was said Hunt, as such collector, indebted, or reported to be indebted, to said United States in said sum of one hundred and thirty-nine thousand eight hundred & six $\frac{76}{100}$ dollars, for moneys received by him for or on account of taxes, or any part thereof, as in said declaration alleged; & of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts.

47 4th. And for a further plea the said last-named defendants say actio non, because they say the said supposed writing obligatory was not delivered to said plaintiff as in said declaration alleged; & of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts.

5th. And for a further plea the said last-named defendants say actio non, because they say that said Hunt is not indebted & does not owe to said plaintiff said sum of money in said declaration demanded, nor any or either of them, nor any part thereof; & of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts.

6th. And for a further plea the said last-named defendants say actio non, because they say that said Hunt did not continue in said office of collector, nor continue to act therein, until on or about said 23d
48 day of May, A. D. 1867, nor in manner & form as in said declaration alleged; and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts.

7th. And for a further plea said last-named defendants say actio non, because they say said alleged writing obligatory was not approved as by law required; & of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Df'ts.

And the said defendant Taylor, for a further plea, says actio non, because he says that heretofore, under & pursuant to the act of the Congress of the United States entitled "An act to establish a uniform

system of bankruptcy throughout the United States," approved March 2, 1867, upon certain proceedings commenced against him, by certain of his creditors, under said act, he was duly adjudged and declared a bankrupt in the district court of the United States sitting in
49 bankruptcy in & for said southern district, & thereafter such proceedings were had under said petition that on, to wit, the day of , A. D. , he, this defendant, was, by the decree of said district court in said proceedings, duly discharged from all his debts & liabilities, including the said demand of said plaintiff, *was which* provable under said act & in said proceedings in bankruptcy, as will more fully appear in & by said decree, or a copy thereof, now to the court here shown; and this he is ready to verify. Whereupon he prays judgment, &c.

GEO. L. POTTER,
Att'y for Taylor.

And on said 28th day of May, 1874, the following order was made and entered in said cause, to wit:

THE UNITED STATES *vs.* FIDELIO S. HUNT ET AL. } 1404.

Continued on application of defendants.

50 And on the 10th day of November, 1874, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES *vs.* FIDELIO S. HUNT ET AL. } 1404.

This day came the district attorney, in behalf of the United States, and the death of Fidelio S. Hunt since the last continuance being suggested by George L. Potter, esq., of counsel for defendants, and the same not being denied, it is ordered, on the motion of the attorney of the United States, that a scire facias be issued to Oliver Clifton, as administrator of the goods and chattels, rights, and credits of said Fidelio S. Hunt, dec'd, returnable to the next term of this court, to show cause why this suit shall not be revived and proceeded in against him as such to final judgment. And cause continued.

And on the 15th day of February, 1875, the following scire
51 facias was issued in said cause, which, with the return of the marshal thereon, is in the words and figures following, to wit:

The President of the United States to the marshal of the southern district of Mississippi, greeting:

Whereas in a certain action of debt pending in the circuit court of the United States for the southern district of Mississippi, in behalf of the United States, plaintiff, against Fidelio S. Hunt and others, his sureties, being No. 1404 on the docket of said court, on the 10th day of November, A. D. 1874, the death of said Fidelio S. Hunt was suggested, and not denied, and it was then and there ordered that a scire facias for the revival of said suit be issued, directed to Oliver Clifton, administrator of the goods & chattels, rights, & credits of said Fidelio S. Hunt,

dec'd, to show cause why the said action should not be revived
52 against him as such administrator: Therefore, we command you that you summon the said Oliver Clifton, administrator as aforesaid, that he be and appear in and before our said circuit court, on the first Monday of May next, at Jackson, in said district, and show cause, if any there be, why the aforesaid action should not be revived against him as such administrator, in the same plight in which the same stood at the death of said defendant Hunt, and proceeded in to final judgment.

And have you then there this writ, and how you have executed the same.

Witness the Hon. M. R. Waite, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court, this 15th day of February, 1875.

[SEAL.] GEO. T. SWANN, *Clerk.*

53 Rec'd Feb'y 15, '75. J. L. Lake, jr., by R. A. Belch, D. U. S. M.

Executed this writ this 19th day of February, A. D. 1875, by stating to the within-named Oliver Clifton the contents of the same, and by delivering unto him a true copy of this writ.

J. L. LAKE, JR.,
U. S. Marshal,
By R. A. BELCH, *D. U. S. M.*

Service, 2.00; E. & R., 50—2.50.

And on the 4th day of May, 1875, the following plea to the scire facias was filed, to wit:

UNITED STATES
v.
F. S. HUNT ET AL.

Circuit court U. S., southern dist. Mississippi, May term, 1875.

54 Comes Oliver Clifton, and for answer to the writ of scire facias heretofore served on him on the day of , as administrator of the estate of F. S. Hunt, dec'd, says that he is not now the administrator of the said estate, nor was he administrator of said estate at the time of the service of said writ, but that Nancy Hunt is executrix of said estate.

OLIVER CLIFTON.

Sworn to and subscribed this the 4th day of May, 1875.

GEO. T. SWANN, *Clk.*

And on said May 4th, 1875, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
vs. 1404.
FDIELIO S. HUNT ET AL.

55 It appearing by the plea of Oliver Clifton to the scire facias issued against him under a former order of this court that he is

not administrator of the goods & chattels, &c., of said Fidelio S. Hunt, dec'd, but that Mrs. Nancy Hunt is the executrix of the last will & testament of said Fidelio S. Hunt, it is ordered that said former scire facias be dismissed, and that a scire facias issue directed to said Nancy Hunt, requiring her to show cause, if any she have, why this suit shall not be revived & proceeded in against her as such executrix.

And on the 5th day of May, 1875, the following scire facias was issued in said cause, to wit:

The President of the United States to the marshal of the southern district of Mississippi, greeting:

Whereas in a certain action of debt pending and undetermined in the circuit court of the United States for the southern district of Mississippi, wherein the United States of America is plaintiff and
56 Fidelio S. Hunt, Joshua Green, John Robinson, William B. Taylor, Henry C. Daniel, Livingston Mims, and William I. Bracey, are defendants, the death of said Fidelio S. Hunt since the institution of said suit hath been suggested and is not denied, and it being further suggested to the court that execution of the last will and testament of said Fidelio S. Hunt hath been duly granted to Mrs. Nancy Hunt, and that she, the said Nancy Hunt, hath been duly qualified as such: Therefore, on the motion of said plaintiff, we command you that you make known to the said Mrs. Nancy Hunt that she be and appear in and before our said circuit court on or before the 1st Monday in November next, and show cause, if any she have or can, why the said action should not be revived and proceeded with against her as executrix aforesaid, in the same plight as the same stood at the death
57 of said defendant Fidelio S. Hunt. And have you then there this writ.

Issued under my hand, with the seal of said circuit court, this 5th day of May, A. D. 1875.

[SEAL.] GEO. T. SWANN, *Clerk.*

Rec'd May 5, '75. J. L. Lake, jr., U. S. M., by R. A. Belch, D. U. S. M.

Executed personally on the 20th day of May, A. D. 1875, by stating the contents hereof to the within-named Mrs. Nancy Hunt, ex't'x of F. S. Hunt, deceased, and by delivering unto her a true copy of this writ.

J. L. LAKE, JR., *U. S. Mar.*

And on the 18th day of May, 1875, the following demurrers and replications to the pleas of defendants Green, Taylor, Daniel, and Robinson were filed in said cause, to wit:

58 In the circuit court of the United States for the southern district of Mississippi, May term, 1875.

THE UNITED STATES OF AMERICA }
vs. }
FIDELIO S. HUNT ET AL. }

And now comes the said plaintiff, by his attorney, and as to the said plea by the said Joshua Green and others first above pleaded in bar the said plaintiff says that the said plea first above pleaded and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said plaintiff

from having and maintaining his aforesaid action against the said defendants; to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity nor in anywise bound by the law of the land to answer, and this he
59 is ready to verify. Wherefore, for want of a sufficient plea in this behalf, the said plaintiff prays judgment and his debt, together with the damages by him sustained on occasion of the detention thereof, to be adjudged to him. And the said plaintiff shows to the court here, as special cause of demurrer thereto, that the said plea traverses none of the allegations of the declaration, and seeks to take advantage of the laches of the defendant Hunt.

WILLIAM W. DEDRICK,
Attorney for U. S., So. District of Miss.

And as to the said plea of the said Green and others by them secondly above pleaded, wherein they put themselves upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
Attorney for the United States for the Southern District of Miss.

And as to the said plea of the said Green and others by them
60 thirdly above pleaded, wherein they put themselves upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney for the So. Dist. Miss.

And as to the said plea of the said Green and others by them fourthly above pleaded, and whereof they have put themselves upon the country, the said plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Att'y for the So. Dist. Miss.

And as to the said plea of the said Green and others by them fifthly above pleaded, and whereof they have put themselves upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Att'y for the So. Dist. Miss.

And as to the said plea of the said Green and others by them sixthly above pleaded, and whereof they have put themselves upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Att'y for the So. Dist. Miss.

61 And as to the said plea of the said Green and others by them seventhly above pleaded, the said plaintiff says that the said plea seventhly above pleaded, and the matters therein contained, in manner and form as the same are therein set forth and pleaded, are not sufficient in law to bar the said plaintiff from having and maintaining his aforesaid action against the said defendants, to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity, nor in anywise bound to answer by the law of the land, and this he is ready to verify. Wherefore, for want of a sufficient in this behalf, the said plaintiff prays judgment and his debt, together with the damages by him sustained by the detention thereof, to be adjudged to him; and the said plaintiff shows to

the court here, as special causes of demurrer thereto, that the said plea traverses or denies none of the allegations of the declaration
62 herein, and is irrelevant to the said action altogether, and that it seeks to present an issue of law for the decision of the jury.

WILLIAM W. DEDRICK,
Att'y for the U. S. So. Dist. of Miss.

And for replication to the plea of bankruptcy of the said defendant Taylor the said plaintiff, by his attorney, says precludi non, because he says that by reason of nothing by said defendant in his said plea pleaded is he barred from having and maintaining his aforesaid action against him, because he says that the said defendant was not, as by him in his said plea charged, duly declared a bankrupt, nor has he been duly discharged of all his debts and liabilities, at any time since the execution of the said bond, by any court of competent jurisdiction; and of this he puts himself upon the country.

WILLIAM W. DEDRICK,
U. S. Attorney for the So. District of Miss.

63 And for a second replication to the plea of bankruptcy of the said defendant Taylor the said plaintiff, by his attorney, says that there is not any record of the said proceedings and discharge in bankruptcy of the said defendant remaining in the said district court of the United States for the southern district of Mississippi, in manner and form as the said defendant hath above in his said plea alleged, &c.

WILLIAM W. DEDRICK,
U. S. Attorney for the So. Dist. of Mississippi.

And on the 19th day of May, 1875, the following motion was filed in said cause, to wit:

In the circuit court of the United States for the southern district of Mississippi.

THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT ET ALS.

Comes now the said plaintiff, by attorney, and moves the court
64 for leave to discontinue the said suit as to said defendant F. S. Hunt, & that the scire facias heretofore issued against Mrs. Nancy Hunt, executrix, be set aside.

W. W. DEDRICK,
U. S. Attorney for the So. Dist. of Miss.
HARRIS & GEORGE, and GEO. L. POTTER, *Contra.*

And on the 20th day of May, 1875, the following order was made and entered in said cause, to wit:

THE UNITED STATES
vs.
F. S. HUNT ET AL. } 1404.

This day came the parties, to wit, the plaintiff and defendants Green, Robinson, Taylor, and Daniel, by their attorneys, and the plaintiff's demurrer to the 1st and 7th pleas of the said defendants herein being

argued, and the court being advised thereon, it is considered by the court that said demurrer to said 1st plea be, and the same is
65 hereby, sustained, and that said defendants have leave to plead over; and that said demurrer to said 7th plea be, & the same is hereby, overruled, and that plaintiffs have leave to file replication thereto.

And on the 21st day of May, 1875, the following order was made and entered in said cause, to wit:

THE UNITED STATES
vs. } 1404.
F. S. HUNT ET AL.

The motion of plaintiff for leave to dismiss as to defendant Hunt being argued, is now here by the court overruled.

And on the 31st day of May, 1875, the following demurrers and replications to the pleas of defendant Hunt were filed in said cause, to wit:

66 In the circuit court of the United States for the southern district of Mississippi, May term, 1875.

THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT ET AL.

And now comes the said plaintiff, by his attorney, and as to the said plea by the said defendant F. S. Hunt, first above pleaded in bar, the said plaintiff says that the said plea first above pleaded and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said plaintiff from having and maintaining his aforesaid action against the said defendants, to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity, nor in any wise bound by the law of the land to answer, and this he is ready to verify. Wherefore, for want of a sufficient plea in
67 this behalf, the said plaintiff prays judgment and his debt, together with the damages by him sustained on account of the detention thereof, to be adjudged to him. And the said plaintiff shows to the court here, as special cause of demurrer thereto, that the said plea traverses none of the allegations of the declaration, and seeks to take advantage of the laches of the said defendant Hunt.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

And as to the said plea of the said defendant F. S. Hunt by him secondly above pleaded, wherein he puts himself upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

68 And as to the said plea of the said defendant F. S. Hunt by him thirdly above pleaded, wherein he puts himself upon the country, the plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

And as to the said plea of the said defendant F. S. Hunt by him fourthly above pleaded, whereof he puts himself upon the country, the said plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

And as to the said plea of the said defendant F. S. Hunt by him fifthly above pleaded, whereof he puts himself upon the country, the said plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

69 And as to the said plea of the said defendant Fidelio S. Hunt by him sixthly above pleaded, and whereof he puts himself upon the country, the said plaintiff doth the like, &c.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

And as to the said plea of the said defendant Fidelio S. Hunt by him seventhly above pleaded, the said plaintiff says that the said plea seventhly above pleaded and the matters therein contained, in manner and form as the same are therein set forth and pleaded, are not sufficient in law to bar the said plaintiff from having and maintaining his aforesaid action against the said defendant; to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity, nor in any wise bound
70 to answer by the law of the land, and this he is ready to verify. Wherefore, for want of a sufficient plea in this behalf, the said plaintiff prays judgment and his debt, together with the damages by him sustained by the detention thereof, to be adjudged to him. And the said plaintiff shows to the court here, as special causes of demurrer thereto, that the said plea traverses or denies none of the allegations of the declaration herein, and is irrelevant to said action altogether, and that it seeks to present an issue of law for the decision of the jury, and that it is in other respects uncertain, informal, and insufficient.

WILLIAM W. DEDRICK,
U. S. Attorney So. Dist. of Miss.

And on the 31st day of May, 1875, the following replication was filed in said cause, to wit:

71 In the circuit court of the United States for the southern district of Mississippi.

THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT ET ALS.

And now again comes the said plaintiff, by his attorney, and his demurrer to the seventh plea of the said defendants Green and others having been by the court overruled and he ordered to plead, and says that as to the said seventh plea of the said defendants, whereof they have put themselves upon the country, the said plaintiff doth the like.

W. W. DEDRICK,
U. S. Attorney for the Southern District of Mississippi.

And on the 4th day of June, 1875, the following order was made and entered of record in said cause, to wit:

72 THE UNITED STATES } 1404.
vs.
FIDELIO S. HUNT ET ALS. }

This day came on to be heard the motion of the sureties of said F. S. Hunt for a rule on the plaintiff to produce books, papers, &c., when from the affidavit of Joshua Green, one of said sureties, it appears to the court that it is necessary for a fair trial of the issues joined in this cause; that upon the trial thereof all the books, papers, accounts, returns, &c., upon which said account against said defendants is based, or copies thereof, as well as a statement of all assessed taxes charged to said F. S. Hunt which went into the possession of Martin Keary, or other successor; also a statement of all amounts collected by any of the successors of said F. S. Hunt, as collector of internal revenue, upon assessment lists charged to him; also a statement of the assessment lists charged under each of said bonds. It further appearing to
73 the court that it is necessary to enable the defendants to prepare for their defence, and that a fair trial be had that such books, papers, reports, returns, payments, &c., or copies thereof be filed within sixty days before the next term of this court. It is therefore ordered by the court that a rule be made upon the plaintiff to file said books, returns, reports, statements, and other papers, or copies thereof, in the office of the clerk of this court sixty days before the next term thereof, this June 4th, 1875.

R. A. HILL, *Judge.*

And on the 8th day of November, 1875, the following order was made and entered of record in said cause, to wit:

UNITED STATES } 1404.
vs.
F. S. HUNT ET ALS. }

This cause coming on to be heard on the demurrer of the said plaintiff to the first and seventh pleas of the said defendant F. S. Hunt,
74 it is ordered by the court that said demurrer to the said first plea be, and the same is hereby, sustained, and that said defendants have leave to plead over, and that said demurrer to the said seventh plea be, and the same is hereby, overruled, and that plaintiff have leave to file replication thereto.

And on the said 8th day of November, 1875, the following order was made and entered in said cause, to wit:

UNITED STATES OF AMERICA } 1404.
vs.
FIDELIO S. HUNT ET AL. }

It appearing to the satisfaction of the court that the scira facias ordered to be issued at a former term of this court, for Nancy Hunt as executrix of Fidelio S. Hunt, one of the defendants herein, whose death has been heretofore suggested, has been duly served
75 and returned, and that said Nancy Hunt, executrix, as aforesaid

has failed to enter her appearance herein. It is by the court ordered that this cause be revived in the name of the said Nancy Hunt, executrix, &c., of the said Fidelio S. Hunt, and be and stand in the same plight as at the time of the death of said Hunt, and be further proceeded with in the name of the said executrix.

R. A. HILL, *Judge.*

And on the 8th day of November, 1875, the following replica ion was filed to defendant Hunt's seventh plea, to wit:

THE UNITED STATES
vs.
F. S. HUNT ET ALS.

And now again comes the said plaintiff, by his attorney, and his demurrer to the said seventh plea of the said defendant Hunt
76 having been by the court overruled and he ordered to plead, and says that as to the said seventh plea of the said defendant Hunt, whereof he has put himself upon the country, the said plaintiff doth the like.

W. W. DEDRICK,
U. S. Att'y, So' Dis't of Miss.

And on the 16th day of November, 1875, the following rejoinder was filed by defendant Taylor to plaintiff's second replication to his plea of bankruptcy, to wit:

In the circuit court of the United States for the southern district of Mississippi.

THE UNITED STATES OF AMERICA
vs. 1404.
FIDELIO S. HUNT ET ALS.

And the said defendant Taylor as to the said plaintiff's second
77 replication to his said plea of discharge in bankruptcy, says, there is such a record of his said discharge in bankruptcy, in the said district court, as in said plea is alleged, & this he prays may be inquired of by the court, &c.

GEO. L. POTTER,
Att'y for Taylor.

And on the 17th day of November, 1875, the following proceedings were had and entered in said cause, to wit:

THE UNITED STATES
vs. 1404.
NANCY HUNT, EX'T'X OF F. S. HUNT ET AL.

This day came the district attorney for the United States, and on his motion it is ordered, that this suit be and the same is hereby dismissed as to the defendants William I. Bracey and Livingston Mims, and issue being joined between the parties, it is ordered that a jury come.
78 Whereupon came the following jury, to wit: W. W. Hence, John Johnson, Henry Weathers, K. A. Buelle, L. F. Alford, E. H. McMichael, E. Franklin, Smith Robinson, M. Mosal, John C. Carraway,

W. H. Furniss, and W. A. Curan—who where elected, empannelled, sworn and charged, well and truly to try the issue joined, and some progress being made therein, and the testimony not being closed, the jurors are allowed to disperse until to-morrow morning 9 o'clock.

And on the 18th day of November, 1875, the following agreement of counsel was filed in said cause, to wit:

Circuit court United States for Southern district of Mississippi, November term, 1875.

UNITED STATES
vs. } 1404.
F. S. HUNT'S ADM'N'R ET ALS.

79 In this cause to supersede the necessity of nonsuit on the part of the plaintiff, it is hereby stipulated and agreed by and between the parties as follows:

1. That a juror be withdrawn and that the cause be continued until the next term of the said court.

2. That the plaintiff have leave to file an amended declaration herein, with a restated account conforming to the judgment of the court upon exceptions or objections taken to the statement heretofore filed, on or before the 4th Monday in January next.

3. That all the papers, transcripts, &c., now on file in the cause remain on file in said court for use by either party.

W. H. DEDRICK, *U. S. Att'y.*
E. E. BALDWIN, *Att'ys for Pl'ff.*
HARRIS, POTTER & NUGENT,
Att'ys for Defendants.

80 And on the 18th day of November, 1875, the following proceedings were had and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 1404.
NANCY HUNT, EX'T'X OF F. S. HUNT, DEC'D, et als.

This day came again the parties, by their attorneys, and also the same jurors empannelled, &c., and permitted to disperse on yesterday until this day, and the trial being resumed, a juror, by consent of parties, is withdrawn; and it is ordered by the court that this cause be continued to the next term, and by like consent it is further considered by the court that the plaintiff have leave to file herein an amended declaration, with a restated account conforming to the judgment of the court upon exceptions or objections taken to the statement here-
81 tofore filed, on or before the 4th Monday in January next, and that all the papers, transcripts, &c., now on file in this cause remain on file in said court for use by either party.

And on the 2nd day of February, 1876, the following amended declaration was filed in said cause, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

In the circuit court of the United States for the southern district of Mississippi, to the November term thereof, A. D. 1871.

THE UNITED STATES OF AMERICA
vs.
FIDELIO S. HUNT, JOSHUA S. GREEN, JOHN ROBINSON, WILLIAM B. TAYLOR, HENRY C. DANIEL, LIVINGSTON MIMS, WILLIAM I. BRACEY.

The United States of America, plaintiff, by E. P. Jacobson,
82 attorney of the United States in and for the said district, complains of Fidelio S. Hunt, Joshua Green, John Robinson, William B. Taylor, Henry C. Daniel, Livingston Mims, and William I. Bracey, defendants, who are residents of said district, and found therein, of a plea that they render unto said plaintiff the sum of fifty thousand dollars, which they owe to and unjustly detain from said plaintiff, for that said defendants heretofore, to wit, on the twenty-fifth day of June, in the year one thousand eight hundred and sixty-six, at the district aforesaid, made and executed their writing obligatory, the date whereof is the day and year aforesaid, and sealed with the seals of the said defendants, a copy whereof, certified according to law, is now to the court here shown, whereby the said defendants acknowledge themselves to be held and firmly bound unto the said plaintiff in the
83 sum of fifty thousand dollars, for the payment whereof well and truly to be made the said defendants, by said writing obligatory, bound themselves, jointly and severally, their joint and several heirs, executors, and administrators, and to the said writing obligatory there was annexed a condition in the words and figures following, to wit:

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said Fidelio S. Hunt collector of taxes, under an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes."

Now, therefore, if the said Fidelio S. Hunt shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Sec-
84 retary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise, it shall abide and remain in full force and virtue.

1. And the said plaintiff avers that the aforesaid writing obligatory after the execution thereof, and on the nineteenth day of July, eighteen hundred and sixty-six, was delivered to the said plaintiff, and filed in the Treasury Department of the United States, and duly approved by the Solicitor of the Treasury Department aforesaid, a duly certified copy whereof is filed herewith, marked "Exhibit A." And the plaintiff says that the said Fidelio S. Hunt was duly appointed to, and did, on the day and year last aforesaid, accept the office of collector
85 of taxes, and then and there entered into and upon the discharge of the duties thereof as such collector, and continued therein to

act and exercise the functions of said office for a long period of time, to wit, from said last-named date until on or about the twenty-third day of May, one thousand eight hundred and sixty-seven; that during the time of his continuance in said office, to wit, on the day and year last hereinbefore mentioned, there was in the hands of said Fidelio S. Hunt, as collector of taxes aforesaid, a large sum of money, to wit, one hundred and thirty-nine thousand four hundred and sixty-three dollars and fifteen cents, being a balance of money that had before that time come into the hands of the said Fidelio S. Hunt as collector as aforesaid, for and on account of taxes due to the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and
86 refuse, justly and faithfully to pay over to the United States, in the manner prescribed in the orders and regulations of the Secretary of the Treasury of the United States, for the time being.

2. And for assigning a further breach of the said condition of the said writing obligatory, the said plaintiff says that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes, as aforesaid, did receive for the use and benefit of the said United States a large sum of money, to wit, one hundred and thirty-nine thousand four hundred and sixty-three dollars and fifteen cents, the same being public moneys of the United States, which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse, justly and faithfully to pay over to the United States, in the manner pre-
87 scribed in the orders and regulations of the Secretary of the Treasury of the United States for the time being.

3. And for assigning a further breach of the said condition of the said writing obligatory, the said plaintiff says, that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, he, the said Fidelio S. Hunt, as collector of taxes as aforesaid, did receive for the use and benefit of the United States a large sum of money, to wit, one hundred and thirty-nine thousand four hundred and sixty-three dollars and fifteen cents, the same being public moneys of the United States, for which said sum of money the said Fidelio S. Hunt, although often requested so to do, hath wholly failed and refused, and still doth fail and refuse justly and faithfully to account with the United States in the manner prescribed in the orders and regulations of the Secretary of the Treasury of the
88 United States for the time being.

4. And for assigning a further breach of the said condition of the said writing obligatory, the said plaintiff says, that during the time of the continuance in said office of said Fidelio S. Hunt, to wit, on and before the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, he became indebted to the United States in the sum of one hundred and thirty-nine thousand four hundred and sixty-three dollars and fifteen cents received by him, the said Hunt, before that time, as such collector for and on account of taxes, due to the United States, which said sum is a balance reported to be due from the said Hunt, as such collector to the United States, upon the adjustment of his, said Hunt's account, as such collector, in the Treasury Department of the United States, a duly certified copy of which account is herewith filed, marked "Exhibit G," which said sum of money

the said Fidelio S. Hunt, although often requested so to do, hath
89 wholly refused and neglected, and still doth neglect and refuse, justly and faithfully to pay into the Treasury of the United States.

Wherefore the plaintiff avers that the condition of the said writing obligatory, has become and is broken and forfeited in this, to wit, that the said Fidelio S. Hunt did not truly and faithfully execute and discharge all the duties of the said office according to law, or justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which came into his hands or possession.

Whereby and by reason of the said several breaches of the condition of the said writing obligatory, by the said defendant Fidelio S. Hunt, an action hath accrued to the said plaintiff, to have and demand of the said defendants the sum of money above demanded, to wit, the
90 sum of fifty thousand dollars and interest thereon, from the twenty-third day of May, in the year one thousand eight hundred and sixty-seven, and the costs of this suit. Yet the said defendants and each of them have hitherto wholly failed and refused to pay the said sum of money or any part thereof, although often requested so to do, and still refuse to pay the same, and therefore the plaintiff brings this suit.

E. P. JACOBSON,
Attorney of the United States for the Southern District of Mississippi.

This re-amended declaration is filed this the day of January, A. D. 1876, by permission of the court, as per order of court, made at the November term thereof, 1875, q. v.

And on the 16th day of February, 1876, the following affidavit was filed in said cause, to wit:

91 *Affidavit.*

In the circuit court of the United States for the southern district of Mississippi.

THE UNITED STATES }
vs. }
F. S. HUNT ET ALS. }

Joshua Green, one of the defendants in said above-named cause, being duly sworn, says that he is advised & verily believes it is material and necessary to the rights and protection of said defendants, in their defence of said cause, that the writings and information below mentioned be furnished by said plaintiff to said defendants in due time before the trial of said cause, the same being, as he believes, in the Treasury Department of the United States, or, if not, then within the control of said department, to wit:

1. Certified copies of the itemized reports of said F. S. Hunt, late collector of the second district of Mississippi, of collections as made by him in his 1st and 2nd terms of office, with date of such collec-
92 tions, & on what monthly lists collected.

2. Certified copies of the itemized reports of said Hunt as such collector from March 31st, 1867, to May 23d, 1867. If said Hunt made no reports during this time, or only for a portion thereof, then certified

copies of the itemized reports of all persons who made reports of collections in said district within said dates, and the name of each such person, with statement on what monthly lists on which the collections were made; also, certified copy of trial final balance of collections on cotton, &c. Wherefore affiant prays an order accordingly, &c.

JOSHUA GREEN.

Subscribed and sworn to before me this 16 Feb., 1876.

GEO. T. SWANN, *Clk.*

And on said 16th day of February, 1876, the following order was made and entered in said cause, to wit:

93 THE UNITED STATES } 1404.
vs.
F. S. HUNT ET AL. }

Upon motion and affidavit of Joshua Green, one of the defendants in this case, it is ordered that the district attorney for this district do file in this cause the following writings & statements to be by him procured from the Treasury Department of the United States or other proper department thereof, to wit:

1. Duly certified copies of all the itemized reports of said F. S. Hunt, late collector of the second district of Mississippi, of collections made by him during his first and second terms of office, with dates of such collections, and on what monthly list collected.

2d. And also certified copies of the itemized reports of collections of said Hunt as such collector from March 31st, 1867, to May 23rd, 1867, with dates of such collections, and on what monthly lists col-

94 lected; and if said Hunt made no report for any part of said time, then duly certified copies of all itemized reports made by other persons of collections in said district within said times; and the names of each such persons, with dates of collections, & a statement on what monthly list collected.

3rd. Certified copy of document of which copy was sent, marked "4," under former order herein, and supposed to be copy of trial final balance of collections on cotton, &c., said former copy having been lost or mislaid—all such copies & statements to be filed in this cause at least thirty days before the first Monday in May next.

And on May 1st, 1876, the following pleas were filed by defendants Green, Robinson, Taylor, and Daniel, to wit:

THE UNITED STATES OF AMERICA,
Southern District of Mississippi:

In the circuit court thereof, May term, A. D. 1876.

95 *Pleas to last-amended declaration.*

FIDELIO S. HUNT ET AL. } No. 1404.
ads.
THE UNITED STATES. }

And now the said Joshua Green, John Robinson, William B. Taylor, and Henry C. Daniel, part of the defendants in said above-named suit, by attorney come and crave oyer of the said supposed writing obliga-

tory, and of said supposed condition thereof, and they are read to them in these words, to wit [here insert the same]:

1st. And thereupon the said defendants, Green, Robinson, Taylor, and Daniel, by their attorney say the said plaintiff the aforesaid action thereof to have or maintain ought not, because, they say, that said Hunt did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by law to support the Constitution of the United States, and this they pray may be inquired of by the country.

GEO. L. POTTER,
Att'y for said Defendants above named.

96 2nd. And, for a further plea, the said last-named defendants say actio non; because, they say, the said condition of said supposed writing obligatory has not become and is not broken or forfeited in manner and form as the said plaintiff in the said declaration and in the several alleged breaches, or any of them, in said declaration set forth hath alleged; but on the contrary thereof said defendants aver that said Hunt did justly and faithfully account for and pay over to said plaintiffs, in compliance with the orders and regulations of the Secretary of the Treasury of said United States, all public moneys which came into his hands or possession as such tax collector, at to wit, at the district aforesaid, and this they pray may be inquired of by the country, &c.

GEO. L. POTTER,
Att'y for said Defendants.

97 3rd. And the said defendants last named, for further pleas, say actio non; because, they say, the said Hunt did not, as such collector of taxes, collect, receive, or have in his hands or possession, said sums of money in said declaration mentioned, nor any or either of them, nor any part thereof, for or on account of taxes due the United States or for the use or benefit of said United States or as public moneys thereof, nor was said Hunt, as such collector, indebted or reported to be indebted to said United States in the said sum of one hundred and thirty-nine thousand four hundred and sixty-three dollars and fifteen cents for money received by him for or on account of taxes, or any part thereof, as in said declaration alleged, and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Defendants.

98 4th. And for a further plea the said last-named defendants say actio non, because they say the said supposed writing obligatory was not delivered to said plaintiff as in said declaration alleged; and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Def'ts.

5th. And for a further plea the said last-named defendants say actio non, because they say that said Hunt is not, nor is his estate, indebted, and does not & did not owe to said plaintiff said sum of money in said declaration demanded, nor any or either of them, nor any part thereof; and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for said Def'ts.

6th. And for a further plea the said last-named defendants say actio non, because they say said Hunt did not accept said office of collector of taxes, nor enter into or upon the discharge of the duties of said
99 office as such collector, nor continue therein to act and exercise the functions of said office until said 23d day of May, A. D. 1867, as in said declaration is untruly alleged; and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for Def'ts.

7th. And for a further plea the said last-named defendants say actio non, because they say that said alleged writing obligatory was not approved, as by law required; and of this they put themselves upon the country, &c.

GEO. L. POTTER,
Att'y for Def'ts.

And the said defendant Taylor, for a further plea, says actio non, because he says that heretofore, under & pursuant to the act of the Congress of the United States entitled "An act to establish a uniform
100 system of bankruptcy throughout the United States," approved March 2d, 1867, upon certain proceedings commenced against him by certain of his creditors under said act he was duly adjudged & declared a bankrupt in the district court of the United States, sitting in bankruptcy, in & for the said southern district of Mississippi, & thereafter such proceedings were therein had upon said petition that on, to wit, the 5th day of November, A. D. 1874, he, this defendant, by the decree of said district court in said proceedings was duly discharged from all his debts & liabilities, including the said demand of said plaintiff, which this defendant avers was proveable under said act & in said proceedings in bankruptcy; as will more fully appear in & by said decree, or a copy thereof, now to the court here shown, and this he is ready to verify. Wherefore he prays judgment, &c.

GEO. L. POTTER,
Att'y for Taylor.

101 And on said 1st day of May, 1876, the following pleas by defendant Hunt were filed in this cause, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Pleas to last amended declaration.

In the circuit court thereof, May term, A. D. 1876.

FIDELIO S. HUNT ET ALS. *ads.* THE UNITED STATES. } 1404.

And the said defendant Nancy Hunt, executrix of the last will and testament of said original defendant Fidelio S. Hunt, comes, by attorney, & craves oyer of said supposed writing obligatory, & of said supposed condition thereof, and they are read to her in these words, to wit: (Here insert the same.)

1. And thereupon the said executrix, by attorney, comes & defends

the wrong & injury, when, &c., & says that the said plaintiff,
102 the said action thereof against her as executrix, as aforesaid, to have or maintain ought not, because she says that the said F. S. Hunt did not, before he entered upon the duties of said office, nor at any time, as required by law, take the oath required by law to support the Constitution of the United States, & of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said Defendant.

2. And for a further plea this defendant says actio non, because she says the said alleged condition of said supposed writing obligatory has not become & is not broken or forfeited in manner & form as in said declaration and said supposed breaches, or any of them, is alleged; but, on the contrary thereof, he, the said F. S. Hunt, did justly & faithfully account for & pay over to said plaintiff, in compliance
103 with the orders & regulations of the Secretary of the Treasury of said United States, all public moneys which came into his hands or possession as such collector, at, to wit, at the district aforesaid, and this she prays may be inquired of by the country, &c.

GEO. L. POTTER,
Att'y for said Df'd't.

3. And for a further plea this defendant says actio non, because she says that said F. S. Hunt did not, as such collector of taxes, collect, receive, or have in his possession, said sums of money in said declaration mentioned, nor any of them, nor any part thereof, for or on account of taxes due the United States, or for the use or benefit of said United States, or as public money thereof; nor was he, as such collector, indebted or reported to be indebted, to said United States in said sum of $139,463.15 for moneys received by him for or on account of
104 taxes, or any part thereof, as in said declaration is alleged; and of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said De'f't.

4. And for a further plea this defendant says actio non, because she says that said supposed writing obligatory was not delivered as in said declaration is alleged; and of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said De'f't.

5. And for a further plea this defendant says actio non, because she says that she, as executrix aforesaid is not, & the said F. S. Hunt in his lifetime was not, indebted & she does not, & said Hunt did not, owe, to said plaintiff, said sums in said declaration above demanded, nor any nor either of them, nor any part thereof; and of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said Defendant.

105 6. And for a further plea this defendant says actio non, because she says that said F. S. Hunt, did not accept the said office of collector of taxes, nor enter into or upon the discharge of the duties of said office, as such collector, nor continue therein to act or

exercise the functions thereof, for & during said period of time, or any part thereof, as in said declaration is alleged; in manner and form as in said declaration stated; and of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said Df't.

7. And for a further plea this defendant says actio non, because she says that said alleged writing obligatory was not approved as by law required; and of this she puts herself upon the country, &c.

GEO. L. POTTER,
Att'y for said Df't.

106 And on the 22nd day of May, 1876, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

On motion of the attorney for the United States, leave is granted him to amend the plaintiff's declaration, and the cause is continued.

And on the 26th day of May, 1876, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

On motion of the defendant it is ordered that the proper officers of the Treasury furnish, duly authenticated, the following copies or transcripts and statements, viz:

107 A list of all cotton bonded at Vicksburg for payment of cotton tax at New Orleans, as charged in assessors' list to F. S. Hunt, late collector for 2nd dist. of Mississippi, from the date of approval of said F. S. Hunt's bond for 1st term up to approval of bond for 2nd term, with a statement of payments on said bonded cotton at New Orleans, and a list of all such bonded cotton on which the said tax has not been paid. Also a list of all cotton bonded at Vicksburg, as charged in assessor's lists to F. S. Hunt, late collector for 2nd district Mississippi, and shipped to New Orleans under said bonds, from the date of approval of the bond of said Collector Hunt for the second term of his collectorship, to May 23rd, 1867, with a statement of payments on said bonded cotton, and also a list of said bonded cotton on which the cotton-tax has not been paid, if any; also a detailed or itemized statement of the ledger account of F. S. Hunt, collector, &c., as the same appears on the books kept in the office or Department of the Commissioner of Internal Revenue.

108 And on the 2nd day of February, 1877, the following order was made, and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 1404. Debt on collector's bond.
FIDELIO S. HUNT ET ALS.

This day came on to be heard the motion of the sureties of said F.

S. Hunt, for a rule on the plaintiff's to produce any evidence on file in the Treasury Department of the source from which the sums of money described in the exhibits on file in the above styled suit, as "Warrant No. 296, 2nd q'r, 1868, $3,061.90," and "Warrant No. 187, 4th q'r, 1873, $5,553.45," and if said sums were ever deposited in the 1st National Bank of Vicksburg, then a copy of the certificate of deposit issued when said deposit was made, if the same be on file in said Treasury Department, and if the books of 1st National Bank be on file in said Treasury Department, then a copy of such entries as will show when the foregoing sums, or any part of them, were deposited in
109 said bank. And it appearing to the court that said motion should be granted, it is ordered by the court that a rule be made upon plaintiff to file any evidence on file in the Treasury Department touching the matter above stated, and especially any evidence going to show when the said amounts "$3,061.90" and "$5,553.45" were first placed to the credit of the United States as distinguished from the date when they were formally covered into the Treasury.

R. A. HILL, *Judge.*

And on May 16th, 1877, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

Continued on application of defendants.

110 And on the 4th day of April, 1878, the following demurrers and replications were filed in said cause, to wit:

In the circuit court of the United States for the southern district of Mississippi, to March special term, 1878.

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

And now comes the said plaintiff, by attorney, and as to the said plea, by the said Joshua Green, John Robinson, William B. Taylor, and Henry C. Daniel, first above pleaded in bar, the said plaintiff says that the said plea first above pleaded, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said plaintiff from having and
111 maintaining his aforesaid action against the said defendants; to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity nor in any wise bound by the law of the land to answer; and this he is ready to verify. Wherefore, for want of a sufficient plea in this behalf, the said plaintiff prays judgment, and his debt, together with the damages by him sustained on occasion of the detention thereof, to be adjudged to him, and the said plaintiff shows to the court here, as a special cause of demurrer thereto, that the said plea traverses none of the allegations of the declaration, and seeks to take advantage of the laches of the defendant Hunt.

H. R. WARE,
Ass't U. S. Dist. Att'y.

2. And as to the said plea of the said Green and others, by them secondly above pleaded, wherein they put themselves upon the country, the plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

112 3. And as to the said plea of the said Green and others, by them thirdly above pleaded, wherein they put themselves upon the country, the plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

4. And as to the said plea of the said Green and others, by them fourthly above pleaded, and whereof they have put themselves upon the country, the plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

5. And as to the said plea of the said Green and others, by them fifthly above pleaded, and whereof they put themselves upon the country, the plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

113 6. And as to the said plea of the said Green and others, by them sixthly above pleaded, and whereof they have put themselves upon the country, the plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

7. And as to the said plea of the said Green and others, by them seventhly above pleaded, and whereof they put themselves upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

8. And for replication to the plea of bankruptcy of the said defendant Taylor the said plaintiff, by his attorney, says precludi non, because he says that by reason of nothing by the said defendant in his said plea pleaded, is he barred from having and maintaining her (?)
114 aforesaid action against him, because she (?) says that the said defendant was not, as by him in his said plea charged, duly declared a bankrupt, nor has he been discharged of all his debts and liabilities at any time since the execution of the said bond by any court of competent jurisdiction; and of this she puts herself upon the country, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And for a second replication to the plea of bankruptcy of the said defendant Taylor, the said plaintiff, by her attorney, says that there is not any record of the said proceedings and discharge in bankruptcy of the said defendant remaining in the said district court of the United States for the southern district of Mississipi, in manner and form as the said defendant hath above in his said plea alleged; and of this the said plaintiff puts herself upon the country, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

115 And on the 4th day of April, 1878, the following demurrers and replications were filed in said cause, to wit:

In the circuit court of the United States for the southern district of Mississippi. To March special term, 1878.

THE UNITED STATES
vs. } 1404.
FIDELIO S. HUNT ET AL.

And now comes the said plaintiff, by her attorney, and as to the said plea by the said Nancy Hunt, as executrix of the last will and testament of Fidelio S. Hunt, late deceased (who was in his lifetime one of the original defendants herein), pleaded in bar, the said plaintiff says that the said plea first above pleaded, and the matters therein contained, in manner and form as the same are above pleaded and
116 set forth, are not sufficient in law to bar the said plaintiff from having and maintaining her aforesaid action against the said defendant; to which said plea, in manner and form as the same is above pleaded and set forth, the said plaintiff is not under any necessity nor in any wise bound by the law of the land to answer; and this he is ready to verify.

Wherefore, for want of a sufficient plea in this behalf, the said plaintiff prays judgment and his debt, together with the damages by him sustained on account of the detention thereof, to be adjudged to him.

And the said plaintiff shows to the court here, as a special cause of demurrer thereto, that the said plea traverses none of the allegations of the declaration, and seeks to take advantage of the laches of the said Hunt, testator of the said defendant and one of the original defendants herein.

H. R. WARE,
Ass't U. S. Dist. Att'y.

117 And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her secondly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her thirdly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her fourthly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

118 And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her fifthly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her sixthly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And as to the said plea of the said Nancy Hunt, as such executrix, &c., by her seventhly above pleaded, wherein she puts herself upon the country, the said plaintiff doth the like, &c.

H. R. WARE,
Ass't U. S. Dist. Att'y.

And on said 4th day of April, 1878, the following order was made and entered of record in said cause, to wit:

119 THE UNITED STATES *vs.* FIDELIO S. HUNT ET AL. } 1404.

This cause coming on to be this day heard on the demurrers of the said plaintiffs to the first plea by the said Nancy Hunt, executrix, &c., and the said Joshua Green, John Robinson, William B. Taylor, and Henry C. Daniel, pleaded, it is by the court considered that the said demurrers be sustained, and that the said defendants have leave to plead over.

And on the 14th day of May, 1878, the following proceedings were had in said cause and entered of record, to wit:

UNITED STATES *vs.* NANCY HUNT, EX'T'X OF F. S. HUNT, ET ALS. } 1404.

120 This day came the parties, by their attorn*ies*, and issue being joined, it is ordered that a jury come; whereupon came a jury of good and lawful men as follows, to wit: M. Gilmer, U. H. Oliphant, D. Montgomery, S. H. Stackhouse, J. M. Dixon, E. J. Runnels, Cyrus Hundley, E. Franklin, John Thomas, D. Lucius, W. A. Whiting, and T. T. Persons, who, being duly elected, empannelled, and sworn, were allowed to disperse under the orders of the court until to-morrow, 9 o'clock a. m.

And on the 15th day of May, 1878, the following proceedings were had in said cause and entered of record, to wit:

THE UNITED STATES *vs.* NANCY HUNT, EX'T'X, ET AL. } 1404.

This day came again the parties, by their attorn*ies*; came also the jury heretofore empannelled in this cause as follows, to wit: M.
121 Gilmer, U. H. Oliphant, D. Montgomery, S. H. Stackhouse, J. M. Dixon, E. J. Runnels, Cyrus Hundley, E. Franklin, John Thomas, D. Lucius, W. A. Whiting, and T. T. Persons, and, under the order of court, were allowed to disperse until to-morrow, 9 o'clock a. m.

And on the 16th day of May, 1878, the following proceedings were had in said cause, and entered of record, to wit:

THE UNITED STATES
vs. } 1404.
NANCY HUNT, EX'T'X, ET AL.

This day came again the parties, by their attorn*ies*; came also again the jury, heretofore empannelled, elected, and sworn in this cause, to wit: M. Gilmer, U. H. Oliphant, D. Montgomery, S. H. Stackhouse, J. M. Dixon, E. J. Runnels, Cyrus Hundley, E. Franklin, John Thomas, D. Lucius, W. A. Whiting, and T. T. Persons, and having heard the evidence and the argument of counsel, as well for the plaintiff as
122 the defendant, and having received the charge of the court, retired to consider of their verdict.

And on the 17th day of May, 1878, the following proceedings were had in said cause, and entered of record, to wit:

THE UNITED STATES
v. } 1404.
NANCY HUNT, EX'T'X ET AL.

This day came again the parties, by their attorn*ies*, and thereupon the jury, who had retired to consider of their verdict, were called into court, and being polled and examined by the court, announced that they had not agreed in their verdict, and that it was impossible for them to agree. It is therefore considered by the court that the said jury be discharged from the further consideration of this cause; that a mistrial be entered, and that this cause be now continued until the next term of this court.

123 And on the 4th day of February, 1879, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
v. } 1404.
F. S. HUNT ET AL.

On motion of the defendant, and by consent of plaintiff's attorney, it is considered and so ordered by the court, that the plaintiff produce for use on the trial of this cause, all the assessment rolls and lists referred to in the account sued on and charged therein, together with the bonded cotton books kept by F. S. Hunt, late collector, &c., and which were delivered by defendants to the agent of the plaintiff; and that on failure to produce said lists, rolls, and books the defendants be allowed to introduce secondary evidence of the same and their contents. And by consent of parties, it is further ordered that this cause be and the
124 same is hereby set for trial on the first Tuesday of the next May term of this court.

And on the said 4th day of February, 1879, the following order was made and entered of record in said cause, to wit:

THE UNITED STATES
v. } 1404.
F. S. HUNT ET AL.

Continued.

And on the 7th day of May, A. D. 1879, the following order was made and entered of record in said cause, to wit:

UNITED STATES
v.
F. S. HUNT'S ADM'R, &C., ET AL. } 1404.

Came the plaintiffs, by attorney, and moved the court to dismiss this suit as to W. B. Taylor, one of the defendants to this suit. It is thereupon by the court, ordered that this cause be and is hereby dismissed as to said defendant, W. B. Taylor.

And on the 8th day of May, 1879, the following proceedings were had in said cause, and entered of record, to wit:

THE UNITED STATES
v.
F. S. HUNT, ADM'N'X, ET AL. } 1404.

This day the marshal brought to the bar of the court, Laz. Lindsey, A. H. Arthur, and Duff Green, arrested under an attachment
125 from this court for failing to appear in answer to the summons issued herein, and the said defaulting witnesses having purged themselves of contempt, were by the court ordered to be released.

And on the said 8th day of May, 1879, the following proceedings were had in said cause and entered of record, to wit:

THE UNITED STATES
v.
F. S. HUNT, ADM'N'X, ET AL. } 1404.

This day came the parties, by their attorneys, and issue being joined, it is ordered that a jury come; whereupon came a jury of good and lawful men as follows, to wit: H. S. King, George S. Butler, S. R. Lampkin, J. J. Veazie, A. F. Kelly, W. D. Larkin, C. H. Forman, Isham R. Dobbins, R. C. Lee, B. H. Polk, Thomas R. Quarterman, and G. Henderson, who being duly elected, empannelled, and sworn, and a part of
126 the evidence submitted to them, were allowed, by consent of parties and under the orders of the court, to disperse until tomorrow morning 9 o'clock a. m.

And on the 9th day of May, 1879, the following proceedings were had in said cause and entered of record, to wit:

THE UNITED STATES
v.
F. S. HUNT'S ADM'N'X, ET AL. } 1404.

Came again the parties, by their attorneys; came also the jury heretofore empannelled in this cause, to wit: H. S. King, George H. Butler, S. R. Lampkin, J. J. Veazie, A. F. Kelley, W. D. Larkin, C. H. Forman, Isham R. Dobbins, R. C. Lee, B. H. Polk, Thomas R. Quarterman, and G. Henderson, and the issue submitted to them, and being duly charged, upon their oaths say: We, the jury, find for the defendants. It is thereupon considered, and so ordered and adjudged by the court that said defendants go hence without day.

127 And before the jurors withdrew from the bar of the court the

plaintiffs, by their attorneys, presented the following bill of exceptions, which was signed by the judge of said court and filed in said cause, and is in the words and figures following, to wit:

THE UNITED STATES
v.
NANCY HUNT, EX'T'X, ET AL. } No. 1404.

In the circuit court of the United States for the southern district of Mississippi, May term, 1879.

1. Be it remembered that on the eighth day of May, A. D. 1879, the same being the fourth day of the May term, 1879, of the said court upon the trial of the said cause before a jury, the attornies for the plaintiffs offered in evidence a certified transcript of the statement of the
128 account of F. S. Hunt, as collector of taxes for the second district of Mississippi, from July 19th, 1866, to May 23d, 1867, from the books of the Treasury of the United States, marked Exhibit Y to the reamended declaration in said cause, and being in the words and figures following, to wit:

129 NOTE.—The certificate of official character attached to this account is torn as shown by lines below.

evenue for the second
rd of the statement of
an a from the books and
the Treasury.
J. A. GRAHAM,
Acting Register.

W. B. M.

Be it remembered that J. A. Graham, esq., who certified the annexed transcript, is now, and was, at the time of doing so, acting register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this twenty-ninth day of December, in the year of our Lord 1875.

[SEAL.] A. E. W.
A. F. C. B. H. BRISTOW,
Secretary of the Treasury.

130 [For suit.]

No. 10630.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *December 14th*, 1875.

I hereby certify that I have examined and adjusted an account between the United States and Fidelio S. Hunt, late collector for the 2nd district of Mississippi from July 19th, 1866, to May 23rd, 1867, and find him chargeable as follows under bond approved July 19th, 1866:

To amount of assessment lists receipted for per form 23½, viz:

1866.					
1	July 28.	" amount receipted for as December, 1865, list	402 31	p	
2	" " "	" " " " January, 1866, " ..	409 71	p	
2	" " "	" " " " February, " " ..	1,263 89	p	
4	" " "	" " " " April, " " ..	313 26	p	
5	" " "	" " " " May, " " ..	372 75	p	
6	" " "	" " " " May (annual) " " ..	37,149 56		
7	" " "	" " " " June, " " ..	107,437 57		
8	Aug. 31.	" " " " " July, " " ..	145,963 82		
9	Sep't 27.	" " " " " June, " " ..	5,058 11		
10	" " "	" " " " " July, " " ..	3,025 18		
11	" " "	" " " " " August, " " ..	81,117 16		
12	Dec. 14.	" " " " " July, " " ..	12,173 98		
13	" " "	" " " " " August, " " ..	2,615 71		
14	" " "	" " " " " September, " " ..	44,188 93		
15	" " "	" " " " " October, " " ..	306,660 89		
	1867.				
16	Jan'y 16.	" " " " " November, " " ..	462,338 38		
17	Feb'y 6.	" " " " " December, " " ..	504,655 59		
18	M'ch 1.	" " " " " January, 1867, " ..	381,531 56		
19	" 12.	" " " " " January, " " ..	3,944 02		
20	" 22.	" " " " " February, " " ..	208,508 16		
21	May 6.	" " " " " March, " " ..	115,107 95		
22	" 28.	" " " " " April, " " ..	70,130 34		
23	June 10.	" " " " " January, 1866, " ..	3 00		
24	Aug. 7.	" " " " " April, 1867, " ..	645 12		
25	July 10.	" " " " " May, " " ..	31,797 20		
26	Sept. 18.	" " " " " " " " ..	14,975 14		
		To amount collected on lists receipted for by successor in office, Martin Keary	156 15		
					2,541,945 44

131 I also find him entitled to credit as follows, viz: By amount of cash deposited as per the following certificates of deposit, viz:

1866.			
July 21.	By C. D.	$151, La. N. B. New Orleans	10,000 00
" 23.	" " "	$1051, 1st N. B. " "	2,500 00
Aug. 9.	" " "	$1078, " " " "	3,586 00
" 10.	" " "	" 173, La. N. B. " "	5,000 00
" 15.	" " "	$1086, 1st N. B. " "	5,668 68
" 16.	" " "	$1087, " " " "	12,000 00
Sep't. 8.	" " "	$1122, " " " " "	6,000 00
" 12.	" " "	" 203, La. N. B. " "	10,000 00
" 21.	" " "	" 211, " " " "	1,100 00
" 26.	" " "	$1147, 1st N. B. " "	1,614 60
" 29.	" " "	" 222, La. N. B. " "	3,118 22
Oct. 5.	" " "	$1163, 1st N. B. " "	14,000 00
" 13.	" " "	" 235, La. N. B. " "	3,600 00
" "	" " "	$1174, 1st N. B. " "	1,710 00
" 15.	" " "	$1179, " " " "	2,041 13
" 17.	" " "	$1182, " " " " "	24,644 90
" 18.	" " "	$1185, " " " "	19,000 00
" 19.	" " "	" 241, La. N. B. " "	8,562 56
" 23.	" " "	" 397, 1st N. B. Mobile	4,888 68
" 25.	" " "	" 249, La. N. B. New Orleans	5,359 08
" 26.	" " "	$1196, 1st N. B. " "	1,112 31
" "	" " "	" 400, 1st N. B. Mobile	1,077 06
" 30.	" " "	" 255, La. N. B. New Orleans	2,114 99
Nov. 1.	" " "	" 257, " " " " "	24,682 52
" "	" " "	" 259, " " " "	1,303 20
" "	" " "	" 260, " " " "	3,827 04
" 2.	" " "	$1204, 1st N. B. New Orleans	50,000 00
" 3.	" " "	" 262, La. N. B. " "	3,331 91
" "	" " "	" 264, " " " "	5,928 75
" 6.	" " "	" 414, 1st N. B. Mobile	14,215 46
" 7.	" " "	" 268, La. N. B. New Orleans	8,390 00
" 9.	" " "	" 270, " " " "	1,574 37
" "	" " "	" 271, " " " "	2,500 00

"	10.	" " "	§ 273, " " " " "	2,550 50
"	15.	" " "	§ 276, " " " " "	3,490 49
"	14.	" " "	§1223, 1st N. B. "	30,000 00
"	"	" " "	§ 279, La. N. B. New Orleans	1,074 68
"	17.	" " "	§1226, 1st N. B. " "	25,000 00
"	19.	" " "	§ 285, La. N. B. " "	40,000 00
			Amount carried forward	366,566 90
132			Amount brought forward	$366,566 90
	1866.			
Nov.	21.	By am't of C. D.	§1232, 1st N. B. New Orleans	50,000 00
"	26.	" " "	§433, " " " Mobile	28,894 23
"	28.	" " "	§1245, " " " New Orleans	40,000 00
"	"	" " "	§292, La. N. B. " "	25,000 00
Dec.	4.	" " "	§241, Tenn. N. B. Memphis	249 12
"	"	" " "	§243, " " " "	274 26
"	6.	" " "	§1256. 1st N B. New Orleans	60,000 00
"	8.	" " "	§301, La. N. B. " "	25,000 00
"	17.	" " "	§458, 1st N. B. Mobile	20,000 00
"	"	" " "	§1273, 1st N. B. New Orleans	25,000 00
"	"	" " "	§1274, 1st " " " "	30,000 00
"	19.	" " "	§213, La. N. B, " "	30,000 00
"	21.	" " "	§257, Tenn. N. B., Memphis	316 86
"	26.	" " "	§1287, 1st N. B. New Orleans	30,000 00
"	27.	" " "	§320, La. N. B. " "	30,000 00
"	31.	" " "	§326, " " " "	34,752 47
"	"	" " "	§1296, 1st N. B. " "	67,497 20
	1867.			
Jan.	3.	" " "	§ , 1st N. B. Mobile	18,264 17
"	4.	" " "	§1299, 1st N. B. New Orleans	952 38
"	12.	" " "	§1874, 1st N. B. Mobile	65,000 00
"	16.	" " "	§340, La. N. B., New Orleans	50,000 00
"	21.	" " "	§1325, 1st N. B. " "	50,000 00
"	25.	" " "	§289, Tenn. N. B., Memphis	1,798 06
"	31.	" " "	§1343, 1st N. B. New Orleans	110,983 10
"	"	" " "	§356, La. N. B., " "	85,000 00
Feb.	1.	" " "	§510, 1st N. B. Mobile	29,380 31
"	13.	" " "	§368, La. N. B., New Orleans	50,000 00
"	14.	" " "	§1364, 1st N. B. " "	50,000 00
"	28.	" " "	§1387, " " " "	84,000 00
"	"	" " "	§381, La. N. B " "	67,000 00
M'ch	1.	" " "	§541, 1st N. B. " "	22,610 15
"	2.	" " "	§316, Tenn. N. B., Memphis	1,598 62
"	"	" " "	§386, La. N. B. New Orleans	1,426 12
"	4.	" " "	§388, " " " "	4,717 68
"	5.	" " "	§391, " " " "	3,225 27
"	"	" " "	§1394, 1st N. B. " "	2,739 65
"	6.	" " "	§393, La. N. B. " "	4,599 15
"	8.	" " "	§552, 1st N. B. Mobile	9,406 03
"	9.	" " "	§395, L. A. N. B. New Orleans	12,560 83
"	11.	" " "	§1402, 1st N. B. " "	21,564 00
"	"	" " "	§554, 1st N. B. Mobile	100,000 00
"	12.	" " "	§1404, 1st N. B. New Orleans	21,483 54
			Amount carried forward	1,731,790 80
133			Amount brought forward	$1,731,790 80
	1867.			
M'ch	16.	By am't of C. D.	§398, La. N. B., New Orleans	16,471 52
"	"	" " "	§1407, 1st N. B., " "	13,972 64
"	19.	" " "	§1409, " " " "	8,000 00
"	21.	" " "	§1412, " " " "	10,852 96
"	23.	" " "	§400, La. N. B., " "	14,985 67
"	25.	" " "	§568, 1st N. B. Mobile	62 64
"	"	" " "	§570, " " " "	228 81
"	26.	" " "	§405, La. N. B., New Orleans	10,018 48
"	"	" " "	§1419, 1st N. B. " "	6,063 64
"	"	" " "	§1420, " " " "	1,997 46
"	27.	" " "	§1422, " " " "	57 30
"	"	" " "	§572, 1st N. B., Mobile	38,998 23
"	28.	" " "	§574, " " " "	1,439 99

"	30.	" " " " "	§576, " " " "	116 07
"	"	" " " " "	§406, La. N. B., New Orleans	2,252 88
April	2.	" " " " "	§1428, 1st N. B. " "	6,762 20
	5.	" " " " "	§409, La. N. B. " "	4,639 78
	"	" " " " "	§1430, 1st N. B. " "	491 65
	6.	" " " " "	§583, 1st N. B. Mobile	12,745 64
	"	" " " " "	§403, Asst. U. S. treas., N. Orleans	12,499 05
	8.	" " " " "	§411, La. N. B., " "	1,625 85
	9.	" " " " "	§1437, 1st N. B., " "	10,705 19
	"	" " " " "	§408, Asst. U. S. treas. " "	5,000 00
	10.	" " " " "	§1438, 1st N. B. " "	2,244 83
	"	" " " " "	§411, Asst. U. S. treas., " "	5,000 00
	11.	" " " " "	§414, La. N. B., " "	1,884 69
	"	" " " " "	§415, Asst. U. S. treas., " "	1,612 41
	12.	" " " " "	§415, La. N. B., " "	1,281 34
	"	" " " " "	§1441, 1st N. B. " "	1,682 83
	"	" " " " "	§417, Asst. U. S. treas., " "	3,000 00
	18.	" " " " "	§422, " " " " " "	4,417 10
	"	" " " " "	§421, La. N. B., " "	4,255 41
	"	" " " " "	§1445, 1st N. B. " "	5,655 16
	20.	" " " " "	§1446, " " " " "	5,363 94
	"	" " " " "	§422, La. N. B., " "	559 74
	22.	" " " " "	§599, 1st N. B, Mobile	3,248 00
	23.	" " " " "	§424, La. N. B., N. Orleans	3,272 60
	"	" " " " "	§427, Asst. U. S. treas., " "	5,000 00
	26.	" " " " "	§426, La. N. B., " "	688 50
	27.	" " " " "	§1456, 1st N. B. " "	1,042 00
	"	" " " " "	§429, Asst. U. S. treas., " "	2,000 00
	29.	" " " " "	§430, " " " " " "	867 15
		Amount carried forward		1,964,854 15
134		Amount brought forward		$1,964,854 15
	1867.			
Ap'l	30.	By am't of C. D.	§431, Ass't U. S. treas., N. Orleans	499 59
"	"	" " " " "	§433, " " " " " "	1,092 99
"	"	" " " " "	§431, La. N. B., " "	1,602 52
May	1.	" " " " "	§610, 1st N. B., Mobile	396 00
"	2.	" " " " "	§1459, 1st N. B., New Orleans	2,101 81
"	3.	" " " " "	§614, 1st N. B., Mobile	7,562 23
"	4.	" " " " "	§436, Ass't U. S. treas., N. Orleans	1,230 33
"	6.	" " " " "	§443, La. N. B., " "	1,001 02
"	"	" " " " "	§439, Ass't U. S. treas., " "	272 61
"	"	" " " " "	§440, " " " " " "	946 88
"	"	" " " " "	§441, " " " " " "	187 98
"	"	" " " " "	§444, " " " " " "	467 97
"	"	" " " " "	§1465, 1st N. B., New Orleans	1,660 33
"	8.	" " " " "	§1468, " " " " "	3,927 92
"	10.	" " " " "	§629, 1st N. B., Mobile	1,456 59
"	11.	" " " " "	§451, Ass't U. S. treas., N. Orleans	17,332 33
"	"	" " " " "	§1475, 1st N. B., " "	4,959 23
"	13.	" " " " "	§455, La. N. B., " "	6,159 94
"	"	" " " " "	§454, " " " " " "	4,051 63
"	18.	" " " " "	§459, Ass't U. S. treas., " "	7,246 07
"	23.	" " " " "	§5, " " " " " "	690 68
June	3.	" " " " "	§644, 1st N. B., Mobile	4,083 85
"	4.	" " " " "	§20, Ass't U. S. treas., N. Orleans	4,587 73
"	7.	" " " " "	§26, " " " " " "	2,872 94
"	"	" " " " "	§648, 1st N. B., Mobile	9,743 18
"	17.	" " " " "	§37, Ass't U. S. treas., N. Orleans	4,400 00
"	22.	" " " " "	§45, " " " " " "	30,494 00
"	27.	" " " " "	§1353, U. S. treasurer	75 00
"	29.	" " " " "	§56, Ass't U. S. treas., N. Orleans	1,750 00
July	1.	" " " " "	§64, " " " " " "	8,037 22
"	2.	" " " " "	§672, 1st N. B., " "	602 48
"	"	" " " " "	§68, Ass't treas. U. S., " "	996 48
"	16.	" " " " "	§90, " " " " " "	10,000 00
Aug.	26.	" " " " "	§153, " " " " " "	5,000 00
Sept.	6.	" " " " "	§170, " " " " " "	7,140 17
Oct.	5.	" " " " "	§226, " " " " " "	8,000 00

1868.			
May 26.	" " " " " " $665, " " " " " " "		3,061 90
1873.			
Oct. 30.	" " " " " " $552, U. S. Treasurer		2,114 00
" "	" " " " " " $553, " " "		3,439 45
	Amount carried forward		2,136,099 20
135	Amount brought forward	$2,136,099 20	
1875.			
June 21.	By C. D., $1918, U. S. Treas., bal on his disb'g a/c transferred	15,561 81	
	Total cash deposited under 2d bond		2,151,661 01
	" am't of taxes abated by commissioner's orders, as follows, viz: No. 3878, $699 00	699 00	
	No. 4878. $8,820 62 No. 4932. $219 25	9,039 87	
	" 4936. $1,209 87 " 4947. $1,619 34	2,829 21	
	" 4951. $589 11 " 5168. $190 19	779 30	
	" 5169. $1,158 80 " 5170. $335 69	1,494 49	
	" 5202. $1,415 88 " 5173. $40,665 05	42,080 93	
	Total taxes abated		56,922 80
	" amount collected by successors in office on lists receipted for by Collector Hunt, viz:		
	Martin Keary	40,306 40	
	J. T. Smith	3,425 06	
			43,731 46
	" amount collected by him as collector under his 1st bond on lists receipted for by him as collector under 2d bond		150,167 02
	Balance due the United States		139,463 15
			2,541,945 44

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor.*

To the FIRST COMPTROLLER of the Treasury.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
December 21st, 1875.

$139,463.15.

I admit and certify that a balance of one hundred and thirty-nine thousand four hundred and sixty-three and $\frac{15}{100}$ dollars is due to the United States, as stated in the foregoing report.

R. W. TAYLER,
Comptroller.

To the REGISTER of the Treasury.

136 *Statement of differences.*

Balance per account to March 31st, 1867, due the United States.	76,756 17	
" found per adjustment to May 23d, " " " "	139,463 15	
Difference to collector's debit		62,706 98

NOTE.—The collector has not rendered his account for period from April 1st, 1867, to May 23d, 1867.

DR.

1. Assessments form 23½, charged under 1st bond, per report $10629	$412,165 57		
Charged under 2d bond, herein	$2,541,789 29		
		2,953,954 86	
Less am't credited per coll'r's acc'ts		2,816,524 08	
			137,430 78

Caused thus:

				Diff.
Aug., 1866. Lists charged,	$83,732.87,	p'r %	$27,882.70	$55,850 17
July, " " "	161,162.98	" "	45,306.13	115,856 85
Jan'y, 1867. " "	385,475.58	" "	381,531.56	3,944 02
April, " " "	70,775.46	" "	none.....	70,775 46
May, " " "	46,772.34	" "	"	46,772 34
				293,198 84

Deduct:

Am't credited per acc't in gross as lists from "Dec., 1865, to June, 1866"....		$717,728 08	
Am't ch'g'd p'r adjustment on said lists.		564,575 73	
		153,152 35	
Sept., 1856. List per account	$46,804 64		
" " " " adjustment	44,188 93		
		2,615 71	
			155,768 06
			137,430 78

2. Cash deposited:

Am't claimed per coll'r's acc't.....			2,883,511 34
Less amount credited as deposited under 1st bond, r'p't #10629.....		$562,332 59	
Am't credited herein.....		2,151,661 01	
			2,713,993 60
			169,517 83

NOTE.—As the collector's schedules of deposit are not on file, this difference cannot be explained from the papers with the accounts, but from an examination of the accounts it appears that deposits prior to June 30th, 1866, are claimed twice therein.

3. Am't of error by collector in carrying forward balances on his accounts.....	395,329 60
4. Am't charged per adjustment as collections on lists of successor, Keary.....	156 15
	702,434 36

CR.

Per contra:

(*a*). Am't credited per adjustment as taxes abated	56,922 80	
(*b*). Am't credited per adjustment as collections by successors in office on lists of Collector Hunt	43,731 46	
(*c*). Am't credited per coll'rs acc'ts as collections on cotton.....	539,073 12	
		639,727 38
Difference as above.....		62,706 98

137 *Warrants covering into the Treasury, amount of cash deposited, viz:*

UNDER 1ST BOND.		UNDER 2ND BOND.	
No. 22, 2d qr., 1867...	$25,000 00	Part No. 196, 3d qr., 1866...	$13,100 00
" 105, 1st " 1866...	125,000 00	" 510, " " " ...	26,854 68
" 150, " " " ...	888 00	" 740, " " " ...	22,432 82
" 478, " " " ...	35,000 00	" 244, 4th " " ...	88,710 71
" 515, " " " ...	625 00	" 609, " " " ...	363,093 62
" 652, " " " ...	50,000 00	" 35, 1st " 1867...	354,889 91
" 739, " " " ...	1,934 10	" 242, " " " ...	383,045 33
" 205, 2d " " ...	170,400 00	" 564, " " " ...	281,980 31
" 489, " " " ...	647 00	" 885, " " " ...	331,448 93
" 490, " " " ...	53,076 93	" 246, 2d " " ...	70,752 27

" 742, " " " ...	32,083 26	
Part of " 196, 3d " " ...	71,637 40	
	566,291 60	
Deduct am't deposited on account of revenue stamps	3,959 10	
	562,332 59	

" 267, " " " ...	40,988 29
" 579, " " " ...	28,374 85
" 580, " " " ...	34,276 70
" 813, " " " ...	13,827 03
" 909, " " " ...	75 00
" 912, " " " ...	43,104 67
" 214, 3d " " ...	602 48
" 278, " " " ...	19,033 70
" 535, " " " ...	5,000 00
" 806, " " " ...	7,140 17
" 274, 4th " " ...	8,000 00
" 296, 2d " 1868...	3,061 90
" 187, 4th " 1873...	5,553 45
" 481, 2d " 1875...	15,561 81
	2,161,908 63
Deduct am't deposited on account of revenue stamps.....	10,247 62
	$2,151,661 01

FIFTH AUDITOR'S OFFICE,
Dec. 14, 1875.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE,
December 21, 1875.

Revised and reported by—

S. C. CLARKE,

138 Whereupon the counsel for the defendants objected to the admission of the same in evidence in behalf of the said plaintiffs, as a certified account from the books of the Treasury of the liabilities of the said Hunt, as collector, during his term of service under his second bond, upon the grounds that the balance exhibited by the said account is the result of the transactions of both terms of the defendant's service, whereas the suit is upon a bond which covers only the transactions of the second term; and second, because it embraces transactions made by the collector after his removal from office and after the appointment and qualification of his successor, and the balance is in part made up of these transactions, occurring when the collector no longer sustained any official relation to the United States, and after the alleged breach had occurred. And in support of their said objections

139 the defendants, by their attorneys, introduced in evidence the bond of Martin Keary, the successor of the said Hunt as such tax collector, showing that the same was approved on the 29th day of April, 1867, and being in the words and figures following, to wit:

W. F. UNITED STATES OF AMERICA.

W. B. M. TREASURY DEPARTMENT,
October 12*th*, 1875.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed is a true copy of an original official bond of Martin Keary, late collector of internal revenue for the second collection district of Mississippi, dated April 20th, A. D. 1867, on file in this department.

In witness whereof I have hereunto set my hand, and caused the seal

of the Treasury Department to be affixed, on the day and year first above written.

[SEAL.] B. H. BRISTOW,
A. T. C. *Secretary of the Treasury.*

140 Know all men by these presents that we, Martin Keary, John Finn, Henry Hener, William P. Milliken, John How and William Henry, are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this twentieth day of April, in the year one thousand eight hundred and sixty-seven.

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said Martin Keary collector of taxes under an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes:" Now, therefore, if the said Martin Keary shall truly and faithfully execute and discharge all the
141 duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

[U. S. int. rev. stamp, dollar, cancelled.]

JOHN FINN. [SEAL.]
HENRY HENER. [SEAL.]
W. P. MILLIKEN. [SEAL.]
JOHN HOW. [SEAL.]
WILLIAM HENRY. [SEAL.]
MARTIN KEARY. [SEAL.]

Sealed and delivered in presence of—
AUG. W. ALEXANDER.
JOHN A. HYNES.

☞ The following instructions must be particularly observed and complied with, viz:

1st. The Christian names must be written in the body of the bond in full, and so signed in the bond.

2d. A seal of wax or wafer to be attached to each signature.

142 3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. Each surety must make and sign an affidavit of the amount he is worth after paying his just debts.

5th. A district judge or attorney of the United States, or a clerk of a court of record, under seal and designation of the court, county, and State, must certify that the sureties are sufficient to pay the penalty of the bond.

6th. The affidavits of the sureties must be taken and signed before an officer authorized to administer oaths generally. The officer must certify that he administered the oaths. If the magistrate is not a judge

of the U. S. court his authority to administer oaths must be certified by the clerk of a court of record having official knowledge of that fact.

7th. The oath of office must be administered to a collector by a magistrate authorized to administer oaths generally, the authority to be certified as directed under 6th item.

8th. Bond to be dated.

9th. There must be five sureties to the bond.

10th. The bond must bear a revenue stamp of one dollar ($1.00).

I, Martin Keary, having been appointed to the office of collector of the second collection district of the State of Mississippi, do solemnly swear that I have never voluntarily borne arms against the
143 United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

MARTIN KEARY.

Sworn and subscribed, this 19th day of April, 1867, before me. Witness my hand and seal.

144 AUG. W. ALEXANDER, [SEAL.]
U. S. Com'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

UNITED STATES OF AMERICA,
District of Missouri, ss:

I, Benjamin F. Hickman, clerk of U. S. circuit court, districts of Missouri, do hereby certify that Augustus W. Alexander, who administered the above oath, was, at the time of doing so, duly authorized to administer the same; and that full faith and credit are due to his official attestations.

In testimony whereof I have hereunto set my hand and affixed the seal of the circuit court of the United States for the districts of Missouri this twenty-second day of April, A. D. 1867.

[SEAL OF COURT.] BEN. F. HICKMAN,
Clerk of said Court.

[U. S. int. rev. stamp, 5 cents, cancelled.]

I certify that the sureties in the within & foregoing bond are sufficient for the penalty thereof.

JOHN W. NOBLE,
U. S. Att'y for Eastern District of Mo.

[U. S. int. rev. stamp, 5 cents, cancelled.]

145 UNITED STATES OF AMERICA,
Missouri Districts, ss:

William Henry, a surety on annexed bond, being duly sworn, on his

oath says that he is worth the full sum of five thousand dollars after paying all his just debts.

WILLIAM HENRY.

Sworn and subscribed before me this 20th day of April, 1867.

AUG. W. ALEXANDER,
U. S. Comm'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

UNITED STATES OF AMERICA,
Missouri Districts, ss:

Henry Heuer, a surety on annexed bond, on oath says that he is worth the full sum of ten thousand dollars after paying all his just debts.

HENRY HEUER.

Sworn and subscribed before me this 20th day of April, 1867.

AUG. W. ALEXANDER,
U. S. Com'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

146 UNITED STATES OF AMERICA,
Missouri Districts, ss:

John Finn, a surety on annexed bond, on oath says that he is worth the full sum of fifty thousand dollars after paying all his just debts.

JOHN FINN.

Sworn and subscribed before me this 20th April, 1867.

AUG. W. ALEXANDER,
U. S. Com'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

UNITED STATES OF AMERICA,
Missouri Districts, ss:

John How, a surety on annexed bond, on oath says that he is worth the full sum of fifty thousand dollars after paying all his just debts.

JOHN HOW.

Sworn and subscribed before me this 20th day of April, 1867.

AUG. W. ALEXANDER,
U. S. Com'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

147 UNITED STATES OF AMERICA,
Missouri Districts, ss:

William P. Milliken, a surety on annexed bond, on oath says that he is worth the full sum of fifty thousand dollars after paying all his just debts.

W. P. MILLIKEN.

Sworn and subscribed before me this 20th April, 1867.

AUG. W. ALEXANDER,
U. S. Com'r for Mo. Dist's.

[U. S. int. rev. stamp, 5 cents, cancelled.]

UNITED STATES OF AMERICA,
Districts of Missouri, ss:

I, Benjamin F. Hickman, clerk of the circuit court of the United States for the districts of Missouri, do hereby certify that Augustus W. Alexander, who administered the foregoing oaths, was at the time of doing so duly authorized to administer the same, and that full faith and credit are due to his official attestations, and that his signature is genuine.

In witness whereof I hereunto subscribe my name and affix the seal of said circuit court at office in the city of St. Louis, in said district, this 22d day of April, A. D. 1867.

[SEAL OF COURT.] BEN. F. HICKMAN,
Clerk of said Court.

[U. S. int. rev. stamp, 5 cents, cancelled.]

148 UNITED STATES OF AMERICA,
Eastern District of Missouri, ss:

I, Benjamin F. Hickman, clerk of the district court of the United States for the eastern district of Missouri, do hereby certify that John W. Noble, esq., whose name is subscribed to the foregoing certificates as to the sufficiency of the sureties to the within bonds, is now, and was at the time of signing said certificates, attorney of the United States in and for the eastern district of Missouri.

In witness whereof I hereunto subscribe my name and affix the seal of said district court at office, in the city of St. Louis, Missouri, this 23d day of April, A. D. 1867.

[SEAL OF COURT.] BEN. F. HICKMAN,
Clerk of said Court.

[U. S. int. rev. stamp, 5 cents, cancelled.]

TREASURY DEPARTMENT,
SOLICITOR'S OFFICE,
April 29, 1867.

I have examined the within bond and find it to be executed in proper form, and I approve the sureties thereto as sufficient.

H. A. RISLEY,
Acting Solicitor.

149 Whereupon the said objections to the introduction of the said certified account in evidence were by the court sustained, and the same was excluded from the jury as evidence, the court holding that the said certified statement should stand and be considered as a bill of particulars annexed to plaintiffs' declaration only, to which rulings of the court the plaintiffs, by their counsel, then and there excepted.

2. And afterwards, to wit, on the day and year aforesaid, on the trial of the said cause, the plaintiffs, by their attorneys, offered in evidence in their behalf certified copies from the records of the Treasury of the United States of certain receipts for assessment lists, known as forms 23½, covering all the items of debits on the Treasury account, marked Exhibit Y to the reamended declaration herein, and made the bill of particulars sued on by the previous ruling of the court, the said receipts being signed by Hunt and in the words and figures following, to wit:

150 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of December, 1865, amounting to four hundred and two & $\frac{31}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Miss'i.

Dated at Brandon this 28th day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to four hundred and two & $\frac{31}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of Miss'i.

Dated at Jackson, this 28th day of July, 1866.

151 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1866, amounting to four hundred and nine & $\frac{71}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Mississippi.

Dated at Brandon, this 28 day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the 2d district of Mississippi, a list as above described, amounting to four hundred and nine & $\frac{71}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of M.

Dated at Jackson, this 28 day of July, 1866.

152 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district, for the month of February, 1866, amounting to one thousand two hundred and sixty-three & $\frac{89}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Miss'i.

Dated at Brandon, this 28th day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to one thousand two hundred and sixty-three & $\frac{89}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of Miss.

Dated at Jackson, this 28 day of July, 1866.

153 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of April, 1866, amounting to three hundred and thirteen & $\frac{26}{100}$ dollars, 313.26.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Miss'i.

Dated at Brandon, this 28 day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to three hundred and thirteen & $\frac{26}{100}$ dollars, 313.26.

(Signed) F. S. HUNT,
Collector 2 District of Miss'i.

Dated at Jackson, this 28 day of July, 1866.

154 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district for the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1866, amounting to three hundred and seventy-two & $\frac{76}{100}$ dollars, 372.76.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Miss'i.

Dated at Brandon, this 28 day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to three hundred and seventy-two & $\frac{76}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of Miss'i.

Dated at Jackson, this 28 day of July, 1866.

155 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1866, amounting to thirty-seven thousand one hundred and forty-nine & $\frac{56}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Miss'i.

Dated at Brandon, this 28 day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to thirty-seven thousand one hundred and forty-nine & $\frac{56}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of Miss'i.

Dated at Jackson, this 28 day of July, 1866.

156 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of June, 1866, amounting to one hundred and seven thousand four hundred and thirty-seven & $\frac{57}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Mississippi.

Dated at Brandon, this 28 day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the 2d district of Mississippi, a list as above described, amounting to one hundred and seven thousand four hundred and thirty-seven & $\frac{57}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2 District of Miss.

Dated at Jackson, this 28 day of July, 1866.

157 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of July, 1866, amounting to one hundred and forty-five thousand nine hundred and sixty-three & $\frac{82}{100}$ dollars (145,963.82), including the amount of his detailed statement on form 58 for the same month.

(Signed) ALONZO G. MAYERS,
Assessor 2 District of Mississippi.

Dated at Brandon, this 31 day of Aug., 1866.

Collector's receipt.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the 2d district of Mississippi, a list as above described, amounting to one hundred and forty-five thousand nine hundred and sixty-three & $\frac{82}{100}$ dollars.

$145,963.82.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 31 day of Aug., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2' district of Miss. For July, 1866. Receipted for 31 Aug., 1866. $145,963.82.

158 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of June, 1866, amounting to five thousand and fifty-eight & $\frac{11}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.

$5,058.11.] (Signed) THOMAS S. WHITE,
Assessor 2' District of Mississippi.

Dated at Brandon, Miss., this 27th day of September, 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to five thousand and fifty-eight & $\frac{11}{100}$ dollars.
$5,058.11.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 27 day of Sept., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. June, 1867 (?). Receipted for 27th Sept., 1867.

159 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of July, 1866, amounting to three thousand and twenty-five & $\frac{18}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$3,025.18.] (Signed) THOMAS S. WHITE,
Assessor 2' District of Mississippi.

Dated at Brandon, Miss., this 27th day of September, 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to three thousand and twenty-five & $\frac{18}{100}$ dollars.
$3,025.18.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 27 day of Sept., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. July, 1866. Receipted for 27th Sept., 1866.

160 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of August, 1866, amounting to eighty-one thousand one hundred and seventeen and $\frac{16}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$81,117.16.] (Signed) THOMAS S. WHITE,
Assessor 2' District of Miss.

Dated at Brandon, this 27th day of Sept., 1866.

Collector's receipt.

I hereby acknowledge the receipt from T. S. White, assessor for the second district of Mississippi, a list as above described, amounting to eighty-one thousand one hundred and seventeen and $\frac{16}{100}$ dollars.
$81,117.16.] (Signed) F. S. HUNT,
Collector 2' District of Mississippi.

Dated at Jackson, this 27th day of Sept., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. August, 1866. Receipted for 27th Sept., 1866

161 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of July, 1866, amounting to twelve thousand one hundred and seventy-three and $\frac{98}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$12,173.98.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Jackson, this 14th day of Dec., 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to twelve thousand one hundred and seventy-three and $\frac{98}{100}$ dollars.
$12,173.98.] (Signed) F. S. HUNT,
Collector District of .

Dated at Jackson, this 14th day of Dec., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. July, 1866. Receipted for 14th Dec., 1866.

162 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of August, 1866, amounting to two thousand six hundred and fifteen and $\frac{71}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$2,615.71.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Jackson, this 14th day of Dec., 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to two thousand six hundred and fifteen and $\frac{71}{100}$ dollars.
$2,615.71.] (Signed) F. S. HUNT,
Collector District of .

Dated at Jackson, this 14th day of December, 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. August, 1866. Receipted for 14th Dec., 1866.

163 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt,

collector for the same district, an alphabetical list of taxes assessed within said district for the month of September, 1866, amounting to forty-four thousand one hundred and eighty-eight and $\frac{93}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.

$44,188.93.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Jackson, this 14th day of Dec., 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to forty-four thousand one hundred and eighty-eight and $\frac{93}{100}$ dollars.

$44,188.93.] (Signed) F. S. HUNT,
Collector District of .

Dated at Jackson, this 14th day of December, 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. September, 1866. Receipted for 14th Dec., 1866.

164 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of October, 1866, amounting to three hundred and six thousand six hundred and sixty and $\frac{89}{100}$ dollars.

$306,660.89.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Jackson, this 14th day of Dec., 1866.

Collector's receipt.

I hereby acknowledge receipt from Thos. S. White, assessor for the second district of Mississippi, a list as above described, amounting to three hundred and six thousand six hundred and sixty and $\frac{89}{100}$ dollars.

$306,660.89.] (Signed) F. S. HUNT,
Collector District of .

Dated at Jackson, this 14th day of Dec., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. October, 1866. Receipted for 14th Dec., 1866.

165 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of November, 1866, amounting to four hundred and sixty-two thousand three hundred and thirty-eight and $\frac{38}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month and for the month of October.

$462,338.38.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Jackson, this 16th January, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to four hundred and sixty-two thousand three hundred and thirty-eight and $\frac{38}{100}$ dollars.
$462,338.38.] (Signed) F. S. HUNT,
Collector 2nd District of Miss.

Dated at Jackson, Miss., this 16th day of January, 1867.

(Indorsed:) (23½.) F. S. Hunt, esq'r, collector 2d district of Mississippi. November, 1866. Receipted for 16th Jan'y, 1867.

166 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of December, 1866, amounting to five hundred and four thousand six hundred and fifty-five and $\frac{59}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$504,655.59.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Brandon, this 6th day of Feb'y, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2d district of Mississippi, a list as above described, amounting to five hundred and four thousand six hundred and fifty-five and $\frac{59}{100}$ dollars.
$504,655.59.] (Signed) F. S. HUNT,
Collector 2d District of Miss.

Dated at Jackson, this 6th day of February, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2d district of Mississippi. December, 1866. Receipted for 6th Feb'y, 1867.

167 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1867, amounting to three hundred and eighty-one thousand five hundred and thirty-one and $\frac{56}{100}$ dollars.
$381,531.56.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Brandon, this 1st day of March, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amount-

ing to three hundred and eighty-one thousand five hundred and thirty-and $\frac{56}{100}$ dollars.
$381,531.56.] (Signed) F. S. HUNT,
Collector 2d District of Miss.

Dated at Jackson, this 1st day of M'ch, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. January, 1867. Receipted for 1st M'ch, 1867.

168 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1867, amounting to three thousand nine hundred and forty-four and $\frac{02}{100}$ dollars.
$3,944.02.] (Signed) T. S. WHITE,
Assessor 2d District of Miss.

Dated at Brandon, this 12th day of March, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2nd district of Mississippi, a list, as above described, amounting to three thousand nine hundred and forty-four and $\frac{02}{100}$ dollars.
$3,944.02.] (Signed) F. S. HUNT,
Collector 2d District of Miss.

Dated at Jackson, this 12th day of March, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. January, 1867. Receipted for 12th M'ch, 1867.

169 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of February, 1867, amounting to two hundred and eight thousand five hundred and eight and $\frac{16}{100}$ dollars.
$208,508.16.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Miss.

Dated at Brandon, this 22d day of March, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2nd district of Mississippi, a list as above described, amounting to two hundred and eight thousand five hundred and eight and $\frac{16}{100}$ dollars.
$208,508.16.] (Signed) F. S. HUNT,
Collector 2d District of Miss.

Dated at Jackson, this 22d day of March, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. February, 1867. Receipted for 22d M'ch, 1867.

170 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of March, 1867, amounting to one hundred and fifteen thousand one hundred and seven & $\frac{95}{100}$ dollars.
$115,107.95.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Mississippi.

Dated at Brandon, this 6th day of May, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2d district of Mississippi, a list as above described, amounting to one hundred and fifteen thousand one hundred and seven and $\frac{95}{100}$ dollars.
$115,107.95.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 6th day of May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. March, 1867. Receipted for 6th May, 1867.

171 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of April, 1867, amounting to seventy thousand one hundred and thirty & $\frac{34}{100}$ dollars.
$70,130.34.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 28th day of May, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to seventy thousand one hundred and thirty & $\frac{34}{100}$ dollars.
$70,130.34.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 28th day of May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. April, 1867. Receipted for 28th May, 1867.

172 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1866, amounting to three

dollars, including the amount of his detailed statement on form 58 for the same month.
$3.00.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 10th day of June, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to three dollars.
$3.00.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 10th day of June, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. January, 1866. Receipted for 10th June, 1867.

173 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of April, 1867, amounting to six hundred and forty-five & $\frac{12}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$645.12.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 6th day of August, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to six hundred and forty-five & $\frac{12}{100}$ dollars.
$645.12.] (Signed) F. S. HUNT,
Late Collector 2' District of Miss.

Dated at Jackson, this 7th day of August, 1867.

(On margin:) Additional for April, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. April, 1867. Receipted for August 7th, 1867.

174 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1867, amounting to thirty-one thousand seven hundred and ninety-seven & $\frac{20}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$31,797.20.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 10th day of July, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to thirty-one thousand seven hundred and ninety-seven & $\frac{20}{100}$ dollars.
$31,797.20.] (Signed) F. S. HUNT,
Late Collector 2' District of Miss.

Dated at Jackson, this 10th day of July, 1867.

(On margin:) For special and duplicate lists of taxes assessed from the 1st to the 20th May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. May, 1867. Receipted for 10 July, 1867.

175 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, late collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1867, amounting to fourteen thousand nine hundred and seventy-five & $\frac{14}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$14,975.14.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 17th day of Sept., 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to fourteen thousand nine hundred and seventy-five & $\frac{14}{100}$ dollars.
$14,975.14.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 18th day of Sept., 1867.

(On margin:) For the annual taxes assessed in the 21st division from the 1st to the 20th May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. May, 1867. Receipted for 17th Sept., 1867.

176 To the introduction of which, in evidence before the jury, the defendants, by their counsel, objected, upon the grounds that the original receipted assessment lists, known as forms 23, covering the said items, were in court, in custody of plaintiff, under the orders of the court, and were the alphabetical lists of taxes known as form 23, which added together constituted the aggregate lists of taxes assessed and returned to the collector, known as form 23½, and constitute the best evidence of the items of debit in said account, which was shown to be the fact; which said objections to the introduction in evidence of the said receipts on form 23½, under the facts stated, was by the court sustained, and the plaintiff was required to use said assessment lists in the first instance, and to use said aggregate lists only when it became necessary to explain the assessment lists, to supply omissions therein or fix dates of receipts of assessment lists; to which ruling of the court the plaintiffs, by their counsel, then and there excepted.

177 3. And afterwards, to wit, on the day and year aforesaid, on the trial of this cause, and under the previous ruling of this court, the plaintiff read in evidence the alphabetical assessment lists of the several divisions of the second collection district of Mississippi, being the May annual list, to establish and prove the sixth debit item to the account attached to the declaration, and did thereby prove said item to the extent of $18,982.46, all other the said alphabetical list, aggregating $18,167.10, being disallowed by the court because on their face they show that they were received by the collector on the 12th day of June, 1866. Thereupon the plaintiff offered to read in evidence the aggregate list of taxes assessed and returned to the collector, form 23½, being the May annual, in the words and figures following, to wit:

178 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1866, amounting to thirty-seven thousand one hundred and forty-nine and $\frac{56}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2nd District of Miss.

Dated at Brandon, this 28th day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the second district of Mississippi, a list as above described, amounting to thirty-seven thousand one hundred and forty-nine and $\frac{56}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2nd District of Miss.

Dated at Jackson, this 28th day of July, 1866.

179 But the defendant objected to the reading thereof because they purport to be signed at a day different from that stated in the original alphabetical list delivered to and actually received by Collector Hunt, on the 12th June, 1866, and the objection was sustained; to which ruling of the court the plaintiff excepted then and there instantly, and his exception was allowed.

4. And afterwards, to wit, on the day and year aforesaid, on the trial of this cause, the plaintiff read in evidence the alphabetical assessment lists of taxes for the month of June, 1866, to establish and prove item 7 of the account attached to the declaration, and did thereby establish and prove the said item to the extent of $33,063.71, all the balance of the said alphabetical list, aggregating $74,373.86, being disallowed by the court, because, as shown on the face of the said alphabetical assessment list for June, 1866, it represented and was for unassessed taxes collected by Collector Hunt in the month of November, 1865.

180 Thereupon the plaintiff offered to read in evidence the aggregate list of taxes assessed and returned to the said collector, form 23½, for month of June, 1866, in the words and figures following, to wit:

181 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F.

S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of June, 1866, amounting to one hundred and seven thousand four hundred and thirty-seven and $\frac{57}{100}$ dollars.

(Signed) ALONZO G. MAYERS,
Assessor 2nd District of Miss.

Dated at Brandon, this 28th day of July, 1866.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor for the 2nd district of Mississippi, a list as above described, amounting to one hundred and seven thousand four hundred and thirty-seven and $\frac{57}{100}$ dollars.

(Signed) F. S. HUNT,
Collector 2nd District of Miss.

Dated at Jackson, this 28th day of July, 1866.

182 In order to charge defendant with said sum of $74,373.86, but the defendant objected to the reading thereof, because the said aggregate list fails to disclose the true character of the said amount rejected when it in fact included it as appeared, and is not competent to alter or change in any manner the truth as shown by the said alphabetical lists, which objection was sustained by the court; to which ruling of the court the plaintiff then and there instantly excepted, and the exception was allowed.

5. And afterwards, to wit, on the day and year aforesaid, on the trial of this cause, and under the previous ruling of the court, the plaintiff read in evidence the alphabetical assessment list of the several divisions of the second collection district of Mississippi for the month of July, to establish and prove the eighth debit item to the account attached to the declaration, and did thereby prove said item to the extent of $43,280.95, the court rejecting of said alphabetical list the item
183 $102,682.87, and disallowing the same, because, as shown by said alphabetical list, the said item represented and was unassessed taxes collected in the month of December, 1865, and in January and February, 1866. Thereupon the plaintiff offered to read in evidence, in order to charge the defendants with said last-named sum, the aggregate list of taxes assessed and returned to Collector Hunt for the month of July, 1866, in the words and figures following, to wit:

184 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Alonzo G. Mayers, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of July, 1866, amounting to one hundred and forty-five thousand nine hundred and sixty-three and $\frac{82}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.

$145,963.82.] (Signed) ALONZO G. MAYERS,
Assessor 2nd District of Miss.

Dated at Brandon, this 31st day of August, 1866.

Collector's receipt.

I hereby acknowledge the receipt from Alonzo G. Mayers, assessor

for the 2nd district of Mississippi, a list as above described, amounting to one hundred and forty-five thousand nine hundred and sixty-three and $\frac{82}{100}$ dollars.
$145,963.82.] (Signed) F. S. HUNT,
Collector 2nd District of Miss.

Dated at Jackson, this 31' day of August, 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2' district of Miss. For July, 1866. Receipted for 31 Aug., 1866. $145,963.82.

185 But the defendants objected, because the said aggregate list included, as appeared from said alphabetical list, the said rejected item, and was not competent to alter or change in any manner the truth as shown by the said alphabetical lists, form 23, which objection was sustained by the court; to which ruling of the court the plaintiff then and there instantly excepted, and the exception was allowed.

6. And afterwards, to wit, on the day and year aforesaid, on the trial of this cause, the plaintiff read in evidence the alphabetical list of taxes for the month of August, 1866, to establish item 11 of the account attached to the declaration, and did thereby establish and prove the said item to the extent of $27,882.76, the court rejecting and disallowing of said lists the item thereof representing the amount of unassessed taxes collected by Collector Hunt in the months of March, April, May, and June, 1866, and aggregating $53,234.40.

186 Thereupon the plaintiff offered to read in evidence the aggregate list of taxes assessed and returned to said collector, form 23½, for the said month of August, in the words and figures following, to wit:

187 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of August, 1866, amounting to eighty-one thousand one hundred and seventeen & $\frac{16}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$81,117.16.] (Signed) THOMAS S WHITE,
Assessor 2' District of Mississippi.

Dated at Brandon, this 27th day of September, 1866.

Collector's receipt.

I hereby acknowledge the receipt from T. S. White, assessor for the second district of Mississippi, a list as above described, amounting to eighty-one thousand one hundred and seventeen & $\frac{16}{100}$ dollars.
$81,117.16.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 27' day of Sept., 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. August, 1866. Receipted for 27th Sept., 1866.

188 In order to charge defendants with the said sum of $53,234.40, but the defendants objected to the reading thereof, because the

said aggregate list fails to disclose the true character of the said amount reported, while it in fact included said amount as appeared, and is not competent to alter or change the truth as shown by said alphabetical lists, which objection was sustained by the court; to which ruling of the court the plaintiff then and there instantly excepted, and the exception was allowed.

7. And afterwards, to wit, on the day and year aforesaid, on the trial of this cause, the plaintiff moved the court to charge the defendants with the sum of $12,173.98, being item 12 of the account sued on, and read in evidence to sustain its motion the alphabetical assessment list of taxes assessed for the several divisions of the second collection district for the State of Mississippi, and did thereby sustain said item to the extent of $306.84, the court rejecting and disallowing
189 $11,867.14, the same representing unassessed taxes collected by collector in the month of July, 1866, without indicating in what part of the month the same was collected, whether before or after the 19' July, 1866, but allowing the plaintiff by any other competent evidence to show that the said sum was collected after or upon the 19' July, 1866. Thereupon the plaintiff offered to read in evidence, in order to charge the defendants, the aggregate list of taxes assessed and returned to collector, signed Dec. 14, 1866, in the words and figures following, to wit:

190 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of July, 1866, amounting to twelve thousand one hundred and seventy-three & $\frac{98}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month. $12,173.98.] (Signed) THOMAS S. WHITE,
Assessor 2nd District of Mississippi.

Dated at Jackson, this 14th day of December, 1866.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to twelve thousand one hundred and seventy-three & $\frac{98}{100}$ dollars. $12,173.98.] (Signed) F. S. HUNT,
Collector District of

Dated at Jackson, this 14th day of December, 1866.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi· July, 1866. Receipted for 14th Dec., 1866.

191 But the defendants objected to the reading thereof for the reasons stated in the preceding exceptions, and their objection was sustained; to which ruling of the court the plaintiff then and there instantly excepted, and the exception was allowed.

8. And afterwards, to wit, on the day and year aforesaid, on the trial of the said cause, the plaintiffs, by their attornies, offered in evidence in behalf of the said plaintiffs the original lists of the following assess.

ments, to wit, of the months of March, April, and May, 1867, the May, 1867, annual, and additional lists for January, 1866, and April 1867, representing items 21, 22, 23, 24, 25 and 26 of the account sued on, and receipts for the said lists signed by the said Hunt, on forms 23½, dated as follows, to wit, the March, 1867, list, on May 6th, 1867; the April, 1867, list, on May 28th, 1867; the January, 1866, additional list, on June 10th, 1867; the April, 1867, additional list, on August 7th, 1867;
192 the May monthly list, 1867, on July 10th, 1867, and the May, 1867, annual list, on September 18th, 1867; the said receipted forms 23½ being in the words and figures following, to wit:

193 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of March, 1867, amounting to one hundred and fifteen thousand one hundred and seven and $\frac{95}{100}$ dollars.
115,107.95.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 6th day of May, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2nd district of Mississippi, a list as above described, amounting to one hundred and fifteen thousand one hundred and seven & $\frac{95}{100}$ dollars.
$115,107.95] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 6th day of May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. March, 1867. Receipted for 6th May, 1867.

194 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of April, 1867, amounting to seventy thousand one hundred and thirty & $\frac{34}{100}$ dollars.
$70,130.34.] (Signed) THOMAS. S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 28th day of May, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to seventy thousand one hundred and thirty & $\frac{34}{100}$ dollars.
$70,130.34.] (Signed) F. S. HUNT,
Collector 2' District of Mississippi.

Dated at Jackson, this 28th day of May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. April, 1867. Receipted for 28th May, 1867.

195 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1866, amounting to three dollars, including the amount of his detailed statement on form 58 for the same month.

$3.00.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 10th day of June, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to three dollars.

$3.00.] (Signed) F. S. HUNT,
Collector 2' District of Miss.

Dated at Jackson, this 10th day of June, 1867.

(Indorsed:) (23½.) F. S. Hunt collector 2nd district of Mississippi. January, 1866. Receipted for 10th June, 1867.

196 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of April, 1867, amounting to six hundred and forty-five & $\frac{12}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.

$645.12.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 6th day of August, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the 2nd district of Mississippi, a list as above described, amounting to six hundred and forty-five & $\frac{12}{100}$ dollars.

$645.12.] (Signed) F. S. HUNT,
Late Collector 2' District of Miss.

Dated at Jackson, this 7th day of August, 1867.

(On margin:) Additional for April, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector, 2nd district of Mississippi. April, 1867. Receipted for August 7th, 1867.

197 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed

within said district for the month of May, 1867, amounting to thirty-one thousand seven hundred and ninety-seven & $\frac{20}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$31,797.20.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 10th day of July, 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to thirty-one thousand seven hundred and ninety-seven & $\frac{20}{100}$ dollars.
$31,797.20.] (Signed) F. S. HUNT,
Late Collector 2d District of Miss.

Dated at Jackson, this 10th day of July, 1867.

(On margin:) For special and duplicate lists of taxes assessed from the 1st to the 20th May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. May, 1867. Receipted for 10 July, 1867.

198 23½. *Aggregate list of taxes assessed and returned to collector.*

I, Thomas S. White, assessor for the second collection district of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, late collector for the same district, an alphabetical list of taxes assessed within said district for the month of May, 1867, amounting to fourteen thousand nine hundred and seventy-five & $\frac{14}{100}$ dollars, including the amount of his detailed statement on form 58 for the same month.
$14,975.14.] (Signed) THOMAS S. WHITE,
Assessor 2d District of Mississippi.

Dated at Brandon, this 17th day of Sept., 1867.

Collector's receipt.

I hereby acknowledge the receipt from Thomas S. White, assessor for the second district of Mississippi, a list as above described, amounting to fourteen thousand nine hundred and seventy-five & $\frac{14}{100}$ dollars.
$14,975.14.] (Signed) F. S. HUNT,
Collector 2d District of Miss.

Dated at Jackson, this 18th day of Sept., 1867.

(On margin:) For the annual taxes assessed in the 21st division from the 1st to the 20th May, 1867.

(Indorsed:) (23½.) F. S. Hunt, collector 2nd district of Mississippi. May, 1867. Receipted for 17th Sept., 1867.

199 To the introduction of which lists and receipts on form 23½ in evidence, the defendants by their attorneys objected, upon the ground that they were receipted by the said Hunt after the expiration of his term of office, to wit, after the 29th day of April, 1867, the date of approval of the bond of Martin Keary, his successor, and are therefore not binding upon the sureties; which objection to the introduction of the said lists and receipts in evidence was by the court sustained, and

the said lists and receipts excluded from the jury, with leave however, to the plaintiffs to prove, if they can, that the said lists actually came into Hunt's hands before his term of office expired (in which case the sureties shall be bound for the amounts of the said lists), or to prove the actual collections made by Hunt, during his term of office, to wit, before the twenty-ninth day of April, 1867 (in which case the sureties shall be bound for the amounts of the said collections); to which
200 ruling of the court the plaintiffs, by their attornies, then and there excepted.

9. And afterwards, to wit, on the day and year aforesaid, on the trial of the said cause, the plaintiffs, by their attornies, offered in evidence, in behalf of the said plaintiffs, an original statement signed by the said Hunt, as such tax collector, showing the amounts collected and the amounts abated as uncollectible during the month, and of the uncollected on the 18th day of May, 1867, in the 2nd district of Mississippi, the same being in the words and figures following, to wit:

201 [51.]

Statement of lists of the amounts collected and of the amounts abated as uncollectible during the month, and of the amount uncollected on the 18th day of May, 1867, in the 2nd dist. Miss.

[To be made out on the 1st, and sent to this office on or before the 10th day of each month.]

1. Names of lists. (Each list must be reported separately.)	2. Amount of lists and uncollected on previous statement. (See Note "E," 51, B.)	3. Amount collected.	4. Amount abated per order No. (See Note "E," 51 B.)	5. Amount uncollected. (See Note "A," 51 B.)	6. Total. (See Note "B," 51 B.)
Nov., '65. 59	74,373 86			74,373 86	74,373 86
Dec., " Lists	14,612 02	3,936 51		10,675 51	14,612 02
" " 59	71,055 68			71,055 68	71,055 68
Jan'y, '66. Lists	31,325 99	13,819 98		17,506 01	31,325 99
" " 59	21,478 78			21,478 78	21,478 78
Feb'y, " Lists	32,544 55	18,556 29		13,988 26	32,544 55
" " 59	10,148 41			10,148 41	10,148 41
March " Lists	18,604 24	8,419 48		10,184 76	18,604 24
" " 59	14,704 78			14,704 78	14,704 78
April " Lists	15,619 52	6,927 76		8,691 76	15,619 52
" " 59	19,597 32			19,597 32	19,597 32
May, " Lists	45,949 18	32,956 94		12,992 24	45,949 18
" " 59	9,274 56			9,274 56	9,274 56
June, " Lists	23,160 24	14,629 02		8,531 22	23,160 24
" " 59	9,657 74			9,657 74	9,657 74
July, " Lists	58,480 11	54,705 23		3,774 88	58,480 11
Aug., " "	30,498 47	22,684 45		8,814 02	30,498 47
Sept., " "	26,313 11	23,481 04		8,832 07	26,313 11
Oct., " "	9,318 59	2,222 95		7,095 64	9,318 59
Nov., " "	95,406 44	90,061 72		5,344 72	95,406 44
Dec., " "	50,241 34	38,273 67		11,967 67	50,241 34
Jan'y, '67. "	50,589 40	43,166 08		7,423 32	50,589 40
Feb'y, " "	24,100 74	23,490 97		609 77	24,100 74
M'ch, " "	13,683 07	3,239 96		10,443 11	13,683 07
Ap'l, " "	16,571 41	2,886 04		13,685 37	16,571 41
May, " "	*46,772 34	35,336 15		11,436 19	46,772 34
Amount	834,081 89	438,794 24		395,287 65	834,081 89

"51 A" is intended to be used in those cases only where "51 B" will not hold all the lists still open.
* The special ret. is included in this amt.

F. S. HUNT,
Collector.

(Indorsed:) (51.) F. S. Hunt, collector 2nd dist. Miss'i.

202 To the introduction of which account in evidence the defendants, by their attorn*ies*, objected, upon the grounds that the same was made after the expiration of Hunt's term of office, and covered matters covering both of his terms of office, and was not binding upon his sureties; which objections to the introduction of the said account were by the court sustained, and the same excluded from the jury; to which ruling of the court the plaintiffs, by their attorneys, then and there excepted, and tendered this their bill of exceptions, and asked that the same might be made a part of the record, which is accordingly ordered to be done.

This May 8, 1879.

R. A. HILL, *Judge.* [SEAL.]

And on the 24th day of June, 1879, the plaintiffs filed their petition for writ of error in the words and figures following, to wit:

203 To the clerk of the United States circuit court for the southern district of Mississippi:

The undersigned United States, by her attorney, Harvey R. Ware, ass't U. S. att'y, feels aggrieved by a judgment rendered at the May term of said circuit court in said district, in the year 1879, in a certain cause wherein the United States was plaintiff, and Nancy Hunt, administratrix of F. S. Hunt, Henry C. Daniels, Joshua Green, and John Robinson were defendants.

Wherefore prays a writ of error, to operate as a supersedeas, may issue from said judgment of said circuit court as rendered on the 9th day of said term, returnable to the next November term of the Superme Court to be held in the city of Washington on the Monday in November, 1879.

UNITED STATES,
By HARVEY R. WARE,
Her Attorney.

204 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judge of the circuit court of the United States for the southern district of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of the judgment, of a plea which is in the said circuit court before you, between the United States, plaintiffs, and Nancy Hunt, executor, &c., of F. S. Hunt, deceased, Joshua Green, John Robinson, and H. C. Daniels, defendants, a manifest error hath happened, to the great damage of the said United States, plaintiffs, as by their complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable M. R. Waite, Chief Justice of the said Supreme Court, the 25th day of July, in the year of our Lord one thousand eight hundred and seventy-nine.

[SEAL.] JAS. M. McKEE,
Clerk of the Circuit Court of the United States for the Southern District of Mississippi.

Allowed by—

205 The United States of America to Nancy Hunt, administratrix, &c., of F. S. Hunt, deceased, Joshua Green, Henry C. Daniels, and John Robinson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the 2nd Monday of October next, pursant to a writ of error, filed in the clerk's office of the circuit court of the United States for the southern district of Mississippi, in a suit lately pending therein wherein the United States are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff' in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable R. A. Hill, U. S. district judge of Mississippi, this 25' day of July, in the year of our Lord one thousand eight hundred and seventy-nine.

R. A. HILL, *Judge.* [SEAL.]

Service acknowledged for all of the above defendants in error this 26th July, A. D. 1879.

W. L. NUGENT, *Atto.*

206 UNITED STATES OF AMERICA,
Southern District of Mississippi:

I, James M. McKee, clerk of the circuit court of the United States for the southern district of Mississippi, do hereby certify that the foregoing two hundred and five pages do contain a true, full, and perfect transcript of all the pleas, process, and proceedings had and done in a cause lately pending in the circuit court of the United States for the southern district of Mississippi, wherein the United States were plaintiffs and Nancy Hunt, executor, &c., of F. S. Hunt, deceased, Joshua Green, John Robinson, and Henry C. Daniels, defendants, as fully and completely as the same now remains of record in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said circuit court hereto, at office, in Jackson, in said district, this 2nd day of August, A. D. 1879.

[SEAL.] JAS. M. McKEE, *Clerk.*

(Indorsement on cover:) No. 228. The United States, plaintiffs in error, vs. Nancy Hunt, ex't'x of F. S. Hunt, dec'd, Joshua Green, John Robinson, & H. C. Daniels. S. Mississippi, C. C. U. S. Filed 11th August, 1879.

OFFICE SUPREME COURT U.S.
FILED
MAR 13 1882
JAMES H. McKENNEY, Clerk.

Supreme Court of the United States.

OCTOBER TERM 1881.

No. 228.

THE UNITED STATES

vs.

HUNT AND OTHERS.

BRIEF FOR THE UNITED STATES.

This was an action upon the bond of a collector of internal revenue in the State of Mississippi, executed July 19, 1866. The declaration (Record, p. 26,) alleged several breaches, the cause of action being substantially the non-payment of $139,463.15 received by the collector as taxes. The executrix of the principal and the sureties to the bond pleaded *severally;* and after the allowance of a demurrer to one of the pleas, (folio 119,) and a dismissal of the suit as to one of the defendants, (folio 124,) several issues arose, (folios 95, 101, 111, 115:) whether the collector (1) had *paid over* the moneys in question, (2) or had *received* them, (3) or had ever *delivered* the bond sued upon, &c.

1. Upon the trial the plaintiffs offered in evidence a Treasury transcript of the accounts of the collector from July 19, 1865, to May 16, 1867, (folios 128, &c.)

This evidence was objected to (folio 138,) *upon the ground*

that the balance therein exhibited was a result of transaction during both terms of the collector's service [he having acted under a temporary appointment for a period immediately prior to the date of the bond here in suit;] and also, *because it embraced transactions of the collector after his removal from office, and after the appointment and qualification of his successor.*

Thereupon, the transcript was *excluded as evidence, but was ordered to stand as a bill of particulars annexed to the plaintiffs' declaration*, (folio 149.)

2. Afterwards, the plaintiffs offered in evidence certified copies from the records of the Treasury of certain receipts for assessment lists, known as Form 23½, covering all items of debits in the transcript first appeared in evidence. These appeared upon the record, pp. 51 to 61, inclusive, and bear date from July 28, 1866 to September 18, 1867. The authentication and receipts appended to each is substantially, as follows:

"23½. Aggregate list of taxes assessed and returned to the collector.

"I, Alonzo G. Myers, assessor for the second collection district of the State of Mississippi, hereby certify that I have this day delivered to F. S. Hunt, collector for the same district, an alphabetical list of taxes assessed within said district for the month of December, 1865, amounting to $402\frac{31}{100}$.

[Signed] ALONZO G. MYERS,
Assessor, 2d District, Miss.

Dated at Brandon this 28th day of July, 1866."

"I hereby acknoweldge the receipt from Alonzo G.

Myers, assessor for the second district of Mississippi, a list, as above described, amounting to $402\frac{31}{100}$.

[Signed] F. S. HUNT,
Collector 2d District, Miss.

Dated at Jackson this 28th day of July, 1866."

To the introduction of this evidence the defendants objected, because the original receipted assessment lists, known as Forms 23, covering said items were in court, &c., and were "alphabetical lists of taxes, which added together constituted the aggregate list of taxes assessed, and returned to the collector, known as Form $23\frac{1}{2}$, and constitute the best evidence of the items of debit in said account, which was shown to be the fact."

This objection was sustained, and the plaintiffs were required "to use said assessment list in the first instanee, and to use the aggregate lists only when it became necessary to explain the assessment lists, to supply omissions therein, or fix dates of receipts of assessment lists."

3, 4, 5, 6, 7. The plaintiffs thereupon conforming to the last above ruling, and having read in evidence the *alphabetical* assessment lists, and having thereby established certain items in their claim,—for other items thereof contained in such alphabetical lists, but rejected by the court for various reasons, (*ex. qu.* because bearing dates before July 19, 1866,) offered in evidence as explanations, &c., the *aggregate* lists already above mentioned, and this evidence was excluded *because* (3) the aggregate list bore a date differing from that of the alphabetical list, (4, 5, 6, and 7,) the aggregate list did not disclose the true character of the amount rejected, and such list was not competent to change in any manner the truth as shown by the alphabetical list (5).

8. The plaintiffs also offered in evidence certain original lists of assessments receipted for by the collector, and bearing date from May 6th, 1867 to September 17th, 1867, and these were excluded, because bearing date after April 29th, 1867, the date at which the bond of the collector's *successor* was approved, with liberty to the plaintiffs to show that the lists had actually come to the collector's hands before that date.

9. The plaintiffs also offered in evidence an original statement signed by the collector in May, 1867, (Form 51,) showing "amounts collected," &c., &c., during the month ending on the 18th of May, 1867.

This was excluded because made after the expiration of the collector's office, and because it covered matters during both of his terms of office.

All of these rulings were duly excepted to.

For *error* is assigned each of the rulings exclusively evidence as aforesaid.

1. The Treasury transcript was competent evidence under the well known section 886 of the Revised Statutes.

United States *vs.* Gaussen, 19 Wallace, 198.

That it included items for which the sureties were not responsible does not affect its character as to those for which they were responsible. The paper shows upon its face the dates at which the various items were received, and is *prima facie* evidence of those dates sudject to correction. The plaintiffs had alleged in their declaration that the collector's terms of office extended from July 19th, 1866, *to*

about May 23d, 1867, and upon this the defendants had taken issue. The transcript being evidence, amongst other things *of official transactions by the collector at the dates therein contained*, the plaintiffs had a right to have it go to the jury upon, amongst other things, the above issue, and the Court could not deprive them of the benefit of this evidence by assuming to pass upon its weight at the preliminary question of its *competency*.

It is not denied by the defendants that the paper is a transcript for all the accounts for which the sureties are responsible. In such event, I suggest that its other statements are only surplusage; *utile per inutile*, *&c.*

Again, under the pleadings in this action (which are *several* as regards the principal and the sureties,) the whole of the transcripts might well be evidence as against *the collector's estate*, whatever might be the case as against the sureties. Under the pleas of the executrix, the evidence was competent, and should have been received.

I also submit that the court erred in ordering the transcripts to stand as a bill of particulars, and so, as an *admission* by the plaintiffs of the credits therein given to the defendants.

2. The certified copies of the receipts given by the collector under Form 23½ were competent. They were acknowledgments made in the course of the official duty by a person deceased, and in the technical sense of that word is used in this connection were as good evidence of the reception of the moneys therein mentioned as any other receipts by the same person, no matter of how great *detail*. The jury might possibly, in case of consideration betwixt them, have placed greater re-

liance upon the more detailed statement, but that was for them alone, and in the meantime the law permitted the plaintiffs to make out their case by the more summary method, leaving the defendants the liberty of explaining or controverting it by other papers showing the transaction. No exception was taken because of the absence of the original receipts, *so certified.*

At all events, as already suggested the state of the pleadings renders this evidence competent *as against the principal defendant.*

3. Assignments 3, 4, 5, 6 and 7 are submitted without further remark.

4. Whatever an officer does officially is evidence against his sureties. Papers which he is required by the term of his official duty to file by the way of *settling*, are therefore evidence against his sureties, even although filed after his term of office has ended. Such papers indeed, ordinarily are not filed until after a successor has entered upon the duties of the office. The bond anticipates such a transaction as part of the *res gestæ* which it secures. Whatever, therefore, may be said about the items creating original charges *subsequent* (under the evidence in the record) to the termination of the collector's office, the contents of a paper like Form 51, (record p. 69,) which upon the whole is one merely of settlement, is competent, subject to any exceptions pertinent to this or that item therein.

S. F. PHILIPS,
Solicitor General.

OFFICE SUPREME COURT U. S.
FILED
OCT 18 1881
JAMES H. McKENNEY

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D., 1881.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

NANCY HUNT, EXECUTRIX OF F. S. HUNT, DECEASED, JOSHUA GREEN, JOHN ROBINSON AND H. C. DANIELS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

ARGUMENT OF WILLIAM L. NUGENT, ATTORNEY FOR THE DEFENDANTS IN ERROR.

CLARION STEAM PRINT, Jackson, Miss.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D., 1881.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

NANCY HUNT, EXECUTRIX OF F. S. HUNT, DECEASED, JOSHUA GREEN, JOHN ROBINSON AND H. C. DANIELS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

ARGUMENT OF WILLIAM L. NUGENT, ATTORNEY FOR THE DEFENDANTS IN ERROR.

The Bill of Exceptions in the record presents quite fully the several points upon which the opinion and judgment of this court are asked. On the trial of the case the plaintiff offered in evidence the certified account, found on pages 41 to 46 of the printed record, as *evidence of the defendant's liabilities.* The defendants objected to its admission as a certified account from the books of the Treasury of the liabilities of Fidelio S. Hunt, late collector, etc., *during his term of service under his second bond*, upon these grounds: 1. That the balance exhibited by the account is the result of the transactions of both terms of Hunt's service, whereas the bond in suit covers only the transactions of the second term; and, 2. That it embraced transactions made by the collector after his removal from office and after the appointment and qualification of his successor; and the balance is in part made up of these transactions, occurring when the collector no longer sustained any official relation to the United States, and after the alleged breach had occurred. Printed record p. 46. The bond of Martin Keary, successor of Hunt, was offered here in evidence, and it is shown to have been approved April 29, 1867. Ib. 46 to 50.

The breaches of this bond as assigned in the amended declaration are these: 1, That during the term of his continuance in office there were in Hunt's hands, as collector, $139,806 76 being

a balance of money that had come into his hands for, and on account of taxes due to the United States, which he failed to pay, and, 2, That on or before May 23, 1867, said collector had received for the use of the United States $139,806 76, the same being public moneys of the United States, which he had failed to pay over in the manner prescribed in the orders and regulations of the Secretary of the Treasury for the time being; 3, That on or before May 23, 1867, and during his continuance in office, said collector did receive for the use and benefit of the United States $139,806 76, the same being public money, for which he had failed to account with the United States, in the manner prescribed in the orders and regulations of the Secretary of the Treasury; 4, That during the time of his continuance in office, and on or before May 23, 1867, said collector became indebted to the United States in the sum of $139,806 76, received by him as collector before that time for, and on account of, taxes due to the United States, and which was a balance reported to be due upon the adjustment of his accounts. This last was the only count upon the Treasury transcript offered in evidence. Upon a fair analysis it will be seen that the *first count* is for a balance of money that had come into Hunt's hands as collector, and which he failed to pay over; the second for so much money received by him as collector which he had failed to pay over in the manner prescribed by the Secretary of the Treasury; and the third for so much money received by him for which he failed to account as prescribed by the Treasury Department. With this we notice the errors assigned.

I.

Under the first and last counts in the declaration, the transcript above mentioned was offered in evidence; and we say it was properly excluded. Hunt was collector of internal revenue for *two terms*; gave separate bonds; and was, of course, with his securities, separately liable on each board for the defalcations, if any, arising during each term. To show that the sureties in this case are liable for the amount claimed or less, the government was bound to prove that the amount claimed grew out of the defalcation of the collector during the term for which the defendants were securities. This is not done on the face of the transcript. The bond in suit was approved on the 19th July, 1866, and the liabilities of the obligors upon it *commenced* then. The bond of Keary, Hunt's successor, was approved April 29, 1867, and the liability of the securities on Hunt's bond *terminated at that time.*

Bryan vs. The United States, 1 Black, 140;
The United States vs. Nicholl, 12 Wheat., 505;
Sthreshley vs. The United States, 4 Cranch, 169;
The United States vs. Kirkpatrick, 9 Wheat., 720;
Broome vs. The United States, 15 How., 143.

The act of congress provides that a transcript from the books of the Treasury shall be evidence; *an extract from the books*, a portion of the books, may be given in evidence. A garbled statement is not evidence, nor a mutilated statement wherein the debits shall be presented, and the credits suppressed, *nor a statement of results.* 19 Wall., 213. And we may add an account of the transactions of the officer during his official term. The rule ordinarily adopted for application of payments cannot be invoked in cases where different securities under distinct obligations are interested. The Treasury officers cannot, by any exercise of their discretion, enlarge or restrict the obligation of the collector's bond. "Much less can they, by the mere act of keeping an account current, in which debits and credits are entered as they occur, and without any express appropriation of payments, affect the rights of sureties.

The government must show the amount of the defalcation during the term for which the defendants were securities, to charge them. If the collector be in default for a preceding term it is the duty of the Treasury Department to require payment from him and his sureties for that term. These seem to be elementary principles of law.

The United States vs. January & Patterson, 7 Cranch 572;
The United States vs. Eckford's execut'rs, 1 Howard, 259, 260;
The United States vs. Linn, 2 McLean 501.

A glance at the transcript offered in evidence will demonstrate that it constitutes part of a *single running account* kept by the department against Hunt and which covers *both of his terms regardless of his two appointments and two bonds.* That Hunt was his own successor can make no difference whatever. 1 How., 259. Had a transcript from the books, as required by act of congress, been given, it would have disclosed this fact. A separation of the one account by a line drawn across its face just above *the date when the second bond was approved*, was a purely *arbitrary* act not warranted by the facts in the case. The defalcation, if any, occurred during the *first term of office.* On the 28th July, 1866, the collector gave his receipt for sundry *aggregate lists* of taxes assessed. P. R. 51 to 61. These receipts are called form 23½, and upon them the entries in the account seem to have been made. They constitute the first seven items of debit in the account, were for the taxes of December, 1865, and January, February, April, May, (annual) and June, 1866, and aggregated $147,349 05. Items 21, 22, 23. 24, 25 and 26 on the debit side of the account, aggregating $232,658 75, were *aggregate* lists receipted for long after Hunt's term of office had expired. The fact is, that these *aggregate lists* represent the sums total of the duplicate original alphabetical assessments delivered to, and receipted for by, the collector. These assessments in detail are after form *23;* forms 23½ are subsequent acknowledgments of prior receipts *aggregated.* The separate lists

for the months were in the main assessments on cotton, all of which were collected when the cotton was shipped, unless it was *bonded*, and even then the tax was paid by the merchants in New Orleans and elsewhere when the cotton was sold. Whatever the facts, however, Hunt's sureties are asked to be bound for aggregate lists of taxes received by Hunt *after his office had expired and his successor had been appointed and qualified.* If the collector is chargeable as of the date of these receipts, form 23½, so as to let in the first seven items, the last receipts are clearly not imputable to his securities. The balance in Hunt's account current, kept without reference to terms or bonds, is claimed to be $139,463 15. He paid in under his first bond $562,332 59, but was charged, per report No. 10,629, for assessments form 23½, under his first bond $412,165 57; and, to make the account balance, the difference between these two sums was thus credited: "Amount collected by him as collector under his first bond on lists receipted for by him as collector under second bond, $150,167 02:" This is manifestly a forced balance. Printed record 44, 45, 46. But the transcript does not appear to be a copy from the books of the Treasury, and is in fact a statement made up after this suit was commenced—*December 21st, 1875*, to fix the liability upon the second bond by a "trick of book-keeping:" we use the term respectfully of course. From the continuous mode of keeping his accounts, without regard to the terms he may have served, the defalcation during any one term does not appear: the method pursued would necessarily discharge all securities except those for the last term.

The United States vs. Gaussen, 19 Wall., 211, 212, 213.

II.

The court below sustained the special objection to the certified transcript, but allowed it to stand and be considered as a bill of particulars to the declaration only. Standing thus, it, of course, became necessary for the plaintiff to establish the several items of debt in the account, and to do this, sundry copies of receipts, form 23½, given by Collector Hunt, *while he was in office*, and *after his removal and the qualification of his successor*, were offered in evidence. To the introduction of these receipts in evidence defendant objected on the ground that the "*original receipted assessment lists*, known as form 23, covering the said items, were in court, in custody of plaintiff, under the orders of the court, and were the alphabetical lists of taxes known as form 23, which added together constituted the aggregate lists of taxes assessed and returned to the collector, known as form 23½, and constitute the best evidence of the items of debt in said account, which was shown to be the fact." This objection, under the facts stated, was sustained, and the plaintiff was required to use said assessment lists in the first instance, and to use said aggregate lists only when it became necessary to ex-

plain the assessment lists, to supply omissions therein, or fix dates of receipts of assessment lists. P. R. 50, 61. We think this ruling was proper. After Keary was qualified as collector, and the date is fixed by the approval of his bond on the 29th April, 1867, Hunt had certainly no right to attach liability to his sureties by signing aggregate lists of taxes; and had the court allowed the introduction of such lists the plaintiff would have been compelled to suffer a non-suit without further evidence. The idea was not to *supplement* the transcripts of account and lists, by any other or further evidence. It was insisted that the transcript of account imported a *prima facie* liability, and that the aggregate receipts were competent evidence to establish the collector's liability to account for the lists thus receipted for, and to fix the commencement of this liability as of the date of the receipts. But the *best evidence* was in plaintiff's hands,—the original assessments, known as form 23, and bearing the collector's receipt,—all of which, *aggregated*, were afterwards receipted for again upon form 23½. That the assessor forgot to take these *aggregate receipts* when the assessments were delivered to, and receipted for by, the collector can make no difference whatever. The fact remains; the original evidence was in court, in the custody of plaintiff, and was brought into court upon the affidavit of defendants, for the special purpose of being used in evidence to the exclusion of all secondary evidence. No harm could come to either party, and much trouble and difficulty could be and was avoided by requiring the government to proceed orderly. Form 23½ was, doubtless, devised by the department, to facilitate the keeping of books, just as banks usually have deposit checks, but it was wholly useless when form 23, of which it was the *bastard* offspring, was in the hands of the court.

Stitt vs. Huidekofers, 17 Wall, 397–8.

III.

The after proceedings had in the case show the justice of this ruling. Having the original alphabetical assessment lists, the attorney for plaintiff offered the May annual list to prove the sixth debit item in the account attached to the declaration, and did, it was conceded, prove said item to the extent of $18,982 46, all other the said lists, aggregating $18,167 10, being disallowed by the court, because, on their face, they showed that they were received by the collector on the 12th June, 1866. *There was no objection raised and no exception reserved to this ruling of the court; there was no offer made, in any way, to show that the lists rejected remained in Collector Hunt's hands after his second term began, uncollected, or that they were afterwards collected by him, or that the money collected thereon remained in his hands, after the approval of his second bond, unaccounted for.* In order to obviate this decision plaintiff offered to read the aggregate list

of taxes assessed and returned to the collector, form 23½, made up of the items allowed and disallowed by the court; but the defendant objected to the reading thereof because it purported to be signed at a day different from that stated in the original alphabetical lists delivered to, and actually received by, Collector Hunt on the 12th June, 1866. The court sustained this objection and the plaintiff excepted. P. R. 62. Is there any error in this ruling of the court? There was no controversy as to the time when the original assessment lists were delivered to, and received by, the collector; taking that to be true, without something else to charge them, the sureties were not liable for the lists rejected. *The court had so decided without objection on the part of the plaintiff.* The absolute non-liability of the sureties was thus demonstrated. How, then, in a case where there was *no liability*, could liability attach simply because, more than a month *after he had given a receipt for the original alphabetical assessment lists then delivered to him.* the collector gave a different receipt for the *aggregated* statement of the same taxes? If the proof had failed to show *the date when* the lists were received in fact the case might be different; and the defendants might have been driven to proof *aliunde*, fixing the actual date. There was nothing, however, for them to do. The plaintiff's evidence showed the time when the lists,—*the original lists*,—were delivered to, and received by, the collector. The evidence offered, consisted of a simple voucher *provided afterwards by the assessor for the use of the department, bookkeepers.* Manifestly the alphabetical assessment lists themselves, or copies, constituted the best evidence for and against the collector; and the evidence offered should have been excluded after the ruling made by the court, and which, unobjected to, became the law of the case. The rule which requires the best evidence of which the case in its nature is susceptible we believe to be without exception except when the general convenience requires. The design of the rule is to prevent the introduction of any, which supposes that better evidence is in the possession of the party. The rule is essential to the pure administration of justice. It excludes that evidence which itself indicates the existence of more original sources of information.

1 Greenleaf on Evidence, §§ 82, 83;
Tayloe vs. Riggs, 1 Peters, 596;
Mordecai vs. Beal, 8 Port. (Ala.,) 529;
Fitzgerald vs. Adams, 9 Ga., 471.

IV.

The plaintiff then read in evidence the alphabetical assessment lists of taxes for the month of June, 1866, to establish and prove item 7 of the account; and did thereby establish said item to the extent of $33,063 71, all the balance of the lists aggregating

$74,373 86, being disallowed by the court, because, as shown on the face of the alphabetical assessment lists for June, 1866, it represented ~~and~~ and was for *unassessed taxes* collected by Collector Hunt in the month of November, 1865. P. R. 62. The plaintiff reserved no exception to this ruling of the court; indeed, he acquiesced in its propriety, and endeavored to help out the case by reading, form 23½, the aggregate assessment list of taxes assessed and returned to the collector "for the month of June, 1866." We suppose this was done upon the theory that Hunt and his sureties were estopped to deny or explain the receipts, and were, therefore, liable, because of the making thereof, no matter what might be the truth and right of the matter. This pretentious claim can find no warrant in the law.

Swann vs. Southern Express Company, 53 Miss., 293;
Bell vs. Bell, 12 Pa. St., 235;
Ryan vs. Rand, 26 N. H., 12;
Thompson vs. Fausset, Pet. C. Ct., 182;
Weed vs. Snow, 3 McLean, 265;
Lawrence vs. Scaylkill, 4 Wash., 562;
Maze vs. Miller, 1 Wash., 328.

The defendant objected to the reading of the form 23½ receipt, because the said aggregate list failed to disclose the true character of the *amount rejected*, when it in fact *included it* as appeared; and because it was not competent to alter or change in any manner *the truth* as shown by the alphabetical assessment list already in evidence. These objections were sustained, and the plaintiff excepted. Here again we have a repetition of the first proposition. P. R. 63, The *alphabetical lists* themselves were offered in evidence, and were allowed as establishing item 7 of the account sued on and were *disallowed* to the extent of $74,373 86, "because, as shown on" their face, this sum represented *unassessed taxes* collected in *November*, 1865, and for which Hunt was liable on his *first bond and during his first term*." The attorney for the United States acquiesced in this ruling as he should have done; but directly afterwards endeavored to make Hunt's sureties liable for this sum, because of the fact that Hunt had given an acknowledgment of the receipt of lists, including said sum, on the 28th July, 1866, after his second term had begun and his second bond been approved This was an effort to defeat the very judgment of the court and the very right of the case. Hunt and the sureties on his first bond were liable for this $74,373 86, if at all. Every principle of law would estop a party from attacking a judgment acquiesced in by him, and thereby committing an absolute wrong. It was not competent for the government, having, *by original evidence*, shown that the sum disallowed was *not* chargeable upon the bond in suit, to alter or change the case, or disprove the truth, by secondary evidence. Critically considered, form 23½ is only a written acknowledgment of a pre-

vious delivery of the alphabetical assessment lists, by which the party is to be charged.

Herman on Estoppel, 126, 127, 116.

V.

To prove item 8 of the account sued on, plaintiff offered the alphabetical assesssment lists for the month of July, 1866, and thereby established said item to the extent of $43,280 95, the court rejecting the sum of $102 682 87, and disallowing the same, because, as shown by the lists, themselves, this sum represented and was *unassessed taxes collected in the month of December, 1865, and in January and February, 1866.* The plaintiff did not offer to prove that any part of this large sum remained in Hunt's hands after his second term commenced, or after the approval of his second bond, or to establish in any way the liability of the defendants; but submitted to the judgment of the court pronounced upon the best evidence which could be produced. P. R. 63.

The same effort was again made to charge the defendants by offering to read in evidence the "aggregate list of taxes assessed and returned to collector, form 23¼, which was objected to by defendants because the said list included, as appeared from the alphabetical list, the said rejected item, and it was not competent to alter or change the truth as shown by the alphabetical assessment lists. The objection was properly sustained by the court. P. R. 64. The same reasoning and the same authorities apply here as well as to the other exception reserved, and need not be repeated. The plaintiff submitted to a judgment exexcluding a debit item in part as being manifestly right, but endeavored to trip the defendants, because the collector had given a receipt after his term commenced, including the item, and to punish them in opposition to the truth.

VI.

The plaintiff then read in evidence the alphabetical lists of taxes for the month of August, 1866, to establish item 11 of the account sued on, and did thereby establish and prove said item to the extent of $27 882 76, the court rejecting and disollowing of said lists the item representing the amount of unassessed taxes collected by Collector Hunt in the months of March, April, May and June, 1866, aggregating $53,234 40. This ruling of the court was not objected to, and could not well have been. The fact that the assessments of amounts previously collected were not perfected until after the second term began, could not render the securities on the second bond liable. In this case the collector is credited with $150,167 02 *on this very account.* P. R. 64, 44. In March, April, May and June, 1866, Collector Hunt collected, say for cotton taxes, $53,234 40. He was then

liable for this sum upon his first bond, and it should have been charged against that bond alone, nothing else appearing. We know that the sureties of a collector of customs are responsible for money properly handed over to him by his predecessor in office, and for those transmitted to him by another collector, to enable him to pay expenses, which he is required officially to disburse. Broome vs. The United States, 15 How., 158. But the law would be different in the case of officers charged with the collection of *internal revenue*. The obligation of their bond does not meet such a contingency. The outgoing collector accounts directly with the treasury and can only pay money collected to the designated depositories of the United States. He could not absolve himself and securities from liability for money in his possession by showing the receipt of his successor in office therefor. The incoming officer had no authority to receive such moneys, and the outgoing collector was under no official duty to pay them to him. Aside from this, it was not even attempted to show that Hunt held these moneys in his hands after the execution of his second bond. He was certainly bound for them upon his first bond, and could not well account with himself therefor, so as to charge the sureties on his second bond. Indeed we think the reasoning in the case last cited would exclude the idea of liability here.

VII.

The plaintiff then moved the court to charge defendants with $12,173 98, being item 12 of the account sued on, and read in evidence to sustain his motion, the alphabetical assessment lists of taxes assessed for the several divisions of the second collection district of Mississippi, and did thereby sustain said item to the extent of $306 84, the court rejecting and disallowing $11,867 14, the same representing unassessed taxes collected in the month of July, 1866, without indicating in what part of the month the same was collected, whether upon or after July 19, 1866, but allowing the plaintiff to prove by any other competent evidence that said sum was collected after or upon the 19th of July, 1866. This ruling was not objected to. P. R. 65. Plaintiff,, however, offered to prove this fact by offering form 23½,—"aggregate list of taxes assessed and returned to collector," and the defendants objected for the reasons heretofore recited. There was certainly no error in this. This "aggregate list" did not and could not prove *when the unassessed taxes* were in fact collected. There were other sources of information on this point which plaintiff did not explore. That the result of such exploration may have been fatal to the government, may explain the reason why counsel did not undertake the task. The "aggregate list," in the absence of any other evidence, might impose a liability *prima facie*, upon the defendant,—not for money collected but for assessment lists for which he would

be bound to account. More than this certainly cannot be said.

VIII.

Plaintiff next offered in evidence the *original* lists of the following assessments, to-wit: of the months of March, April and May, 1867, the May, 1867, annual, and additional lists for January, 1866, and April, 1867, representing items 21, 22, 23, 24, 25 and 26 of the account sued on; and aggregate receipts for said lists on forms 23¼, dated as follows: the March, 1867, list on May 6, 1867; the April, 1867, list on May 28th, 1867; the January, 1866, additional list on June 10th, 1867; the April, 1867, additional list, August 7, 1867; the May monthly list, 1867, on July 10, 1867; and the May, 1867, annual list, on September 18th, 1867;—all of which aggregate receipts were presented to the court. P. R. 66, 67, 68.

To the introduction of these lists and receipts on form 23¼ in evidence, defendants objected because they were receipted for by Hunt after the expiration of his term of office, which expired April 29, 1867, the date when Keary's bond was approved. The court sustained this objection with leave to the plaintiff to prove that said lists actually came into Hunt's hands before his term of office expired, in which case the sureties would be bound, or to prove the actual collections made by Hunt during his term of office, in which case the sureties would be bound therefor. We think the court was right. The collector, when his official relation to the United States terminated, could do nothing whereby to charge his securities. P. R. 69.

The United States vs. Spencer, 2 McLean, 265;
City of St. Louis vs. Foster, 24 Mo., 141;
Commonwealth vs. Brassfield, 7 B. Mon., (Ky.,) 447;
1 Greenleaf on Evidence, § 187.

IX.

The plaintiff next endeavored to fix a liability upon defendants by offering to read "an original statement signed by Hunt, showing the amounts of taxes collected and amounts abated as uncollectable during the month, and of the amounts uncollected on the 18th May, 1667." P. R. 69. This was objected to because it was made made up by Hunt after his office had expired and related to matters covering both of his terms of office, and was not binding on his sureties; and the objection was sustained. P. R. 70. The authorities heretofore cited vindicate the propriety of this decision. The statement if read by the government generally as evidence, would have defeated the claim upon the second bond. Hunt's first term expired July 19, 1866: his second, April 29, 1867. P. R. 40, 50. The paper offered as evidence to support the declaration shows that the

taxes accruing during the first term and remaining uncollected May 18, 1867, are as follows:

November,	1865,	59	$74,373 86		$74,373 86
December,	1865,	lists	10,675 51		
December,	1865,	59	71,055 68		81,731 19
January,	1866,	lists	17,503 01		
January,	1866,	59	21,478 98		38,984 79
February,	1866,	lists	13,988 26		
February,	1866,	59	10,148 41		24,136 67
March,	1866,	lists	10,184 76		
March,	1866,	59	14,704 78		24,889 54
April,	1866,	lists	8,691 76		
April,	1866,	59	19,597 32		28,289 08
May,	1866,	lists	12,992 24		
May,	1866,	59	9,274 56		22,266 80
June,	1866,	lists	8,531 22		
June,	1866,	59	9,657 74		18,188 96
Making, in the aggregate					$312,860 79

If this large sum represented the amount of taxes under the *first bond and term* remaining uncollected the Treasury statement which charges to the collector, as per report No. 10,629, $412,165 59, is clearly wrong *in fact;* though it may be nominally correct, if we recall the routine but erroneous method of charging by form 23½ instead of form 23; by the *aggregated list* receipted for, instead of the original alphabetical assessments, duplicates of which were delivered to the collector, weeks and often months before the receipts were given for the *aggregate lists.* P. R. 44, bottom of page. The real amount chargeable to the collector on his first bond, by this showing, may be stated about as follows:

Aggregate lists, form 23½	$412,165 57	
Assessment lists, form 23, uncollected as above	312,860 29	
Amount collected under first bond on lists receipted for under second bond	150,167 02	$875,193 38
Now if, from this sum, we deduct the amount paid in under the first bond		562,322 59

we will ascertain that the uncollected taxes chargeable upon the first bond; amounting to $312,860 79, would form the basis of a legitimate proceeding against the collector, the evidence being uncontroverted, while the calculation would show that the figures on the Treasury books are not "*logically*" set in order. P. R. 66. The fact is, we think the whole proceeding against the collector's securities was begun improperly; the the case was not correctly diagnosed; and the labor-saving policy adopted has resulted in *confusion doubly confounded.* It would have been quite a simple plan to sue on the *first bond,* and read in evidence the several assessment lists receipted for

by the collector and chargeable to the bond whether receipted for on form 23½ or not. After this, the credits allowed by the government would furnish all the available *data* for abatement of the claim thus presented, and the balance would be the real amount due,—but due upon the *first and not the second bond.* Here the question becomes extremely material to the securities.

The original alphabetical lists show that the *unassessed* taxes *collected prior to the approval of the second bond were as follows:*

November, 1865, P. R. 62, $ 74,373 86
December, 1865, P. R., 63, 102,682 87
March, April, May,
June 1866, P. R., 64, - - 53,234 40
July, part, 1866, P. R., 65, 11,867 14–$242,158 59.

All of these taxes were afterwards *assessed and charged up to Hunt upon his second bond.* The tax lists were receipted for *after his second term commenced, though the taxes were in fact collected during the first term.* All this showing is made by the original documentary evidence offered by the government, and yet the Treasury statement says the amount collected under first bond on lists receipted for under second bond amounted to $150,167 02 !!

The amount chargeable upon the first bond of the collector, this being true, would be as follows:

Lists, form 23½, report No. 10,629 ..... $412,165 57
Unassessed taxes collected under first bond and receipted for under second.. 242,158 57–$654,324 14

while the extreme limit of the amount as charged under the statements forming the basis of the account in suit, equals $562,332 59, or $91,991 55 less than the amount shown by the papers to be chargeable upon the first bond. This latter sum was deducted from the above amount of $242,158 57, in order to force a balance. That we are correct may be easily demonstrated. Referring to page forty-four of the printed record it will be seen that the amount collected by Hunt as collector, under his first bond, on lists receipted for by him as collector under his second bond, is put down at.. ..... $150,147 02
Difference between amount chargeable and amount charged to first bond as above..... 91,991 55

Total $242,158 57

This sum total represents the real amount collected under first bond on lists receipted for under the second bond, as the alphabetical assessment lists themselves show; and is chargeable on the first, and not on the second bond. In this statement we adopt the indications of the documentary evidence as presenting the facts in the cause. It did not concern us to disprove them or obviate their effect. The case was for us in the court below, and its judgment should be affirmed.

WILLIAM L. NUGENT,
For Defendants in Error.

Postponed.
until hear.
Mar 15-1879
Field J

Submitted
Oct. 21st 1879

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~739.~~ ~~425~~ 176

THOMAS SAYLES, APPELLANT,

vs.

THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED APRIL 19, 1879.

SUPREME COURT OF THE UNITED STATES.

No. 739.

THOMAS SAYLES, APPELLANT,

vs.

THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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1 Pleas in the circuit court of the United States for the northern district of Illinois, held at the United States court rooms in the city of Chicago, in the district aforesaid, before the judges thereof, on Tuesday, the fourteenth day of January, in the year of our Lord one thousand eight hundred and seventy-nine, and of our Independence the one hundred and third.

WILLIAM H. BRADLEY,
Clerk.

THOMAS SAYLES
v.
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company. } In chancery.

NORTHERN DISTRICT OF ILLINOIS, *sct:*

Be it remembered that on the ninth day of December, A. D. 1878, came the said complainant, Thomas Sayles, by Mr. Albert H. Walker, his solicitor, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois, at Chicago, in the district aforesaid, his bond for costs and bill of complaint against said defendant in said entitled cause, which said bond for costs and bill
2 of complaint are respectively in the words and figures following, to wit:

Bond for costs.

Circuit court, October term, A. D. 1878.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

THOMAS SAYLES
v.
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company. } In equity.

I enter myself security for costs in this cause, and promise to pay all costs which may accrue to the opposite party in this action, or to any of the officers of this court; and in default of payment by the plaintiff of any costs ordered or adjudged to be paid by him, I hereby agree and stipulate that execution may issue against my property for any costs taxed against him. Dated this 9 day of December, A. D. 1878.

ASAHEL EMIGH.

(Endorsed:) Filed Dec. 9, A. D. 1878. Wm. H. Bradley, clerk.

3 In the circuit court of the United States for the northern district of Illinois. In equity.

THOMAS SAYLES
versus
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company.

To the judges of the circuit court of the United States for the northern district of Illinois:

Thomas Sayles, of Chicago, Illinois, who is a citizen of the State of

Illinois and of the United States, brings this his bill into this court, against The Lake Shore and Michigan Southern Railway Company, which is a corporation created and existing in due form of law in the State of Illinois.

4 And thereupon your orator complains and says that in the year eighteen hundred and forty-six, and on and prior to the sixth day of July, A. D. eighteen hundred and fifty-two, Lafayette F. Thompson and Asahel G. Bachelder were citizens of the United States, and were jointly the true, original, and first inventors of a certain "improvement in railroad car brakes"; that at the time the said improvement was so invented by said Thompson and Bachelder the same was new, and was then and is now highly useful, and was not known or used by others before the said invention thereof by the said Thompson and Bachelder, and was not at the time of their application for letters patent of the United States therefor in public use or on sale, with the consent and allowance of the said Thompson and Bachelder.

And your orator further shows unto your honors that on or about the first day of April, eighteen hundred and fifty-two, and before the issuing of the letters patent hereinafter set forth, the said Lafayette F. Thompson and Asahel G. Bachelder, by an instrument in writing, under their hands and seals, duly executed and delivered, and bearing date on said last named day, did assign, sell, and set over to one Henry Tanner, of Buffalo, in the State of New York, who was then and ever continued to be a citizen of the United States, all the right, title, and interest whatever, which they then had, or by letters patent would be entitled to have and possess, in the aforesaid invention; all of which will fully appear by reference to the said instrument, or to a copy thereof, under the signature of the Commissioner of Patents, with the seal of the Patent Office of the United States affixed, which your orator brings here into court; and your orator shows that a copy of said instrument is hereunto annexed, marked Schedule A, and your orator shows that the said instrument was duly recorded in the said Patent Office on the fifteenth day of April, eighteen hundred and fifty-two.

And your orator further shows that on the aforesaid sixth day of July, eighteen hundred and fifty-two, letters patent for the said improvement were, in due form of law, issued and delivered to the said

5 Henry Tanner, in the name of the United States of America, and under the seal of the Patent Office of the United States, and signed by the Secretary of the Interior of the United States, and countersigned by the Commissioner of Patents, and that the said letters patent did grant to the said Tanner, and to his heirs, administrators, or assigns, for the term of fourteen years from the last-named day, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement. And your orator brings here into court a copy of the said letters patent, under the signature of the Commissioner of Patents, with the aforesaid seal affixed, and prays that the same may be taken as a part of this bill, and he shows that a copy of said letters patent is hereto annexed, marked Schedule B.

And your orator further shows that on or about the fifth day of July, eighteen hundred and sixty-six, the said Tanner patent was renewed and extended in due form of law for the term of seven years from and after the sixth day of July, eighteen hundred and sixty-six, and that by virtue of said extension the said Tanner patent had and has in law the same force and effect as though it had been originally granted for the full term of twenty-one years. And your orator brings here into court a copy of the certificate of such extension, under the signature of the

aforesaid Commissioner, with the seal of the said Patent Office affixed, and he prays that the same may be taken as a part of this bill, and he shows that a copy of said certificate is hereto annexed, marked Schedule C.

And your orator further shows that on or about the thirteenth day of July, eighteen hundred and fifty-four, the said Henry Tanner, by an instrument in writing, under his hand and seal, and duly executed and delivered, and bearing date on said last named day, did sell, assign, transfer, and set over to your orator, the said Thomas Sayles, all his right, title, interest and claim, both present and future, in and to said invention and patent, and any extension of the latter that might thereafter be granted, excepting certain territory set forth therein; all which will fully appear by reference to the last-mentioned instrument, or to a copy thereof, under the signature of the aforesaid Commissioner, with the aforesaid seal affixed, which your orator brings here into court; nd your orator shows that a copy of said last mentioned instrument is hereto annexed, marked Schedule D; and your orator shows that the last-mentioned instrument was duly recorded in the aforesaid Patent Office on the seventeenth day of July, eighteen hundred and fifty four.

And your orator further shows that on or about the twenty third day of January, eighteen hundred and fifty-five, the said Henry Tanner, by an instrument in writing, under his hand and seal, and duly executed and delivered, and bearing date on the said last-named day,
6 did sell, assign, transfer, and set over to your orator, the said Thomas Sayles, all his right, title, interest and claim, both present and future, in or to any damages and profits and rights of action for the same, either at law or in equity, growing out of the unlawful use, or manufacture, or vending of the said invention, so far as said damages and profits had not then been settled for; all which will fully appear by reference to the said last-mentioned instrument, or to a copy thereof, under the signature of the aforesaid Commissioner, with the aforesaid seal affixed, which your orator brings here into court; and your orator shows that a copy of said last mentioned instrument is hereto annexed, marked Schedule E; and your orator shows that the said last-mentioned instrument was duly recorded in the aforesaid Patent Office on the twenty-fourth day of January, eighteen hundred and fifty-five.

And your orator further shows that certain assignments of certain interests in both the first and the extended term of the said Tanner patent in the States of Ohio and Indiana, and elsewhere in the United States, under the hands and seals of the assignors respectively, were duly executed and delivered on or about the days on which they respectively bear date, to wit:

An assignment from the said Henry Tanner to one Stephen M. Whipple, dated July 30, 1853.

An asssignment from the said Stephen M. Whipple to your orator, Thomas Sayles, dated October 24, 1863.

An assignment from the said Henry Tanner to the said Stephen M. Whipple, dated November 23, 1853.

An assignment from the said Stephen M. Whipple to one Francis A. Stevens, dated November 3, 1855.

An assignment from the said Francis A. Stevens to your orator, Thomas Sayles, dated November 6, 1855.

And your orator further shows that all of said last-mentioned instruments (five in number) were duly recorded in the said Patent Office within three months after their execution respectively; all which will fully appear by reference to said last-mentioned instruments, or to copies

thereof, under the signature of the said Commissioner, with the aforesaid seal affixed, which your orator brings here into court.

And your orator avers that the interest in the said Tanner patent, and rights of action, which was conveyed to him by the above-mentioned assignments, included, among other things, the entire right and property in and to the aforesaid first term and extended term of said Tanner patent, and also included the entire property in and to all rights of action under both said terms, for infringers' profits or savings, and for other relief for the said infringements and unlawful acts, within and throughout the whole extent of the territory or portion or portions of the United States wherein the hereinafter averred infringements and unlawful acts were committed; and your orator avers that by reason of the premises your orator has become and now is the sole and exclusive holder of all rights of action for infringers' profits or savings, and for other relief, for or by reason of any and all infringements of the said Tanner patent, during both the original term and the extended term thereof, committed at any time by any corporations, partnerships or persons, anywhere in the said territory, and that your orator is entitled to bring this suit.

7 And your orator further shows that in an action in equity in this court, brought by your orator against the Chicago and Northwestern Railroad Company, in the year 1861, for infringement of the said Tanner patent, a final decree was entered December 22d, 1873, after a very thorough and stubbornly contested litigation of nearly twelve years, in which decree it was among other things ordered and adjudged as follows:

"That the letters patent on which this suit is brought, granted on the sixth day of July, A. D. eighteen hundred and fifty-two, to Henry Tanner, as the assignee of Asahel G. Batchelder and Lafayette F. Thompson, for an improvement in railway car brakes, are good and valid."

And your orator further shows that the said action was prosecuted and defended as a test case; and that, as such, this defendant contributed pecuniary aid to said defence, and was represented by counsel herein.

8 And your orator further shows that the above named defendant, well knowing the premises, did from the sixteenth day of August, 1869, and up to and including the sixth day of July, 1873, unlawfully and wrongfully, and without the license or permission of your orator, and against the will of your orator, use and operate, or cause to be used and operated, upon railroad cars at places in the United States, within the territory included in the said assignments to your orator, brakes for railroad cars, containing and employing substantially the improvement patented in and by the said letters patent of the said Tanner, in violation and infringement of the said exclusive rights and privileges of your orator; but how many such brakes for railroad

9 cars the defendant so used and operated, or caused or permitted to be used and operated, your orator is ignorant and cannot set forth; but your orator avers that the defendant so used and operated, or caused to be used and operated, a large number thereof, and that it derived, received and realized therefrom great gains, profits, savings, benefits and advantages, but to what amount your orator is ignorant and cannot set forth.

And your orator further shows that prior to the sixteenth day of August, 1869, the Cleveland and Toledo Railroad Company was a corporation, created in due form of law in the State of Ohio, and that, well knowing the premises, it did, from the first day of January, 1865, and up

to the sixteenth day of August, 1869, unlawfully and wrongfully, and without the license or permission of your orator, and against the will of your orator, use and operate, or cause to be used and operated, upon railroad cars at places in the United States, within the territory included in the said assignments to your orator, brakes for railroad cars, containing and employing substantially the improvement patented in and by the said Tanner letters patent, in infringement of the exclusive rights and privileges of your orator, but how many such brakes for rail-
10 road cars it so used and operated, or caused or permitted to be used and operated, your orator is ignorant and cannot set forth; but your orator avers that it so used and operated, or caused to be used and operated, a large number thereof, and that it derived, received, and realized therefrom great gains, profits, savings, benefits and advantages, but to what amount your orator is ignorant and cannot set forth, and he prays that the defendant may be required to make a discovery of the full number of brakes, and full amount of gains, profits and savings; because your orator further shows that on or about the said last-named day the said Cleveland and Toledo Railroad Company and sundry other corporations were all consolidated, in due form of law, into one corporation, to wit, the said Lake Shore and Michigan Southern Railway Company, and thereafter ceased to elect officers or do business as independent corporations, and that by virtue of said consolidation the said Lake Shore and Michigan Southern Railway Company succeeded to all the property and franchises of the said Cleveland and Toledo Railroad Company, and to the possession and control of its papers and books of account.

And your orator further shows that said property and franchises were, on the said last-named day, of greater net value and amount (over and above all mortgages and other liens, and over and above all just and lawful obligations of the Cleveland and Toledo Railroad Company, that have since been paid by the defendant, or upon which it has been sued) than the last mentioned savings and profits.

And your orator further prays that the defendant, by a decree of this court, may be compelled to account for and pay to your orator all the gains, profits and savings which the defendant at any time during the extended term of the said Tanner patent in any manner derived, received, or realized from or by reason of the use and operation in brakes for railroad cars, of the improvement patented thereby; and also that the defendant may be compelled to account for and pay over to your orator all the gains, profits and savings which the said Cleve-
11 land and Toledo Railroad Company at any time during the first term, or the extended term, of the same Tanner patent in any manner derived, received, or realized from or by reason of the use and operation in brakes for railroad cars of the last-mentioned improvement, and also that the defendant may be decreed to pay the costs and disbursements of this suit; and that your orator may have such further or other relief as the equity of the case may require, and to this court may seem meet.

To the end, therefore, that the defendant may, if it can, show why your orator should not have the relief hereby prayed, and may (under its corporate seal), according to the best and utmost of its knowledge, remembrance, information or belief, full, true, direct, and perfect answer make to the several matters herein-above stated, as fully and particularly as if the same were here repeated and the defendant specially interrogated with reference thereto respectively; and especially that it may such perfect answer make to such of the several interrogatories

hereinafter numbered and set forth, as by the note hereunder written it is respectively required to answer; that is to say:

1. Whether, after the said sixteenth day of August, 1869, and up to and including the said sixth day of July, 1873, it used and operated, or caused to be used and operated, in the United States, any brakes for railroad cars of the farm known as the "Tanner" brake (as represented in the drawings on page 15 of this bill, or of a modified form thereof, having two of the four main rods attached to each end of the center lever, instead of as represented in the drawings); and when and where and upon what railroad or railroads, or parts or branches thereof,
12 the same have been so used, and how many of such brakes for railroad cars the defendant so used and operated, or caused or permitted to be used and operated.

2. And whether the defendant claim that the same were so used and operated, or caused to be used and operated, under or by reason or color of any license or any other permission or authorization from any person or persons whatever, and, if so, that it may fully set forth any such license or other authorization.

May it please your honors to grant unto your orator a writ of subpœna ad respondendum issuing out of and under the seal of this honorable court, directed to the said The Lake Shore and Michigan Southern Railway Company, and commanding it to appear and make answer to this bill of complaint, and to perform and abide by such order and decree herein as to this court shall seem just.

And your orator will ever pray.

ALBERT H. WALKER,
Solicitor for Complainant and of Counsel.

13 The defendant, the Lake Shore and Michigan Southern Railway Company, is required to answer the interrogatories numbered respectively 1, 2.

ALBERT H. WALKER,
Solicitor for Complainant.

14 SCHEDULE A.

Whereas we, Lafayette F. Thompson, of Charlestown, and Asahel G. Bachelder, now or late of Lowell, in the State of Massachusetts, have invented an improved mode of operating the brakes of railway cars, and have applied, or intend to apply, for letters patent of the United States of America therefor:

Now, therefore, this indenture witnesseth, that for and in consideration of one hundred dollars, in hand paid, the receipt whereof is hereby acknowledged, I have assigned and set over, and do hereby assign, sell, and set over to Henry Tanner, of Buffalo, in the State of New York, all the right, title, and interest whatever which we now have, or by letters patent would be entitled to have and possess, in the aforesaid invention; the said invention being described in the specification as prepared and executed by us, or to be prepared and executed by us, for the obtaining of said letters patent; the whole to be held and enjoyed by the said Henry Tanner and his legal representatives to the full extent and manner in which the same would have been or could be held and enjoyed by us had this assignment never been made.

And we do, by these presents, authorize the Commissioner of Patents to issue the said letters patent to the said Henry Tanner and his legal representatives, as the assignee of our whole right and title to the same and to the new invention aforesaid.

In witness whereof we have hereto set our signatures and seals, this first day of April, A. D. 1852.

LAFAYETTE F. THOMPSON. [SEAL.]
ASAHEL G. BACHELDER. [SEAL.]

Witness:
R. H. EDDY.

15 SCHEDULE B.

No. 9109.

United States of America to all to whom these letters patent shall come:

Whereas Lafayette Thompson, of Charlestown, Mass., and Asahel G. Bachelder, of Lowell, Mass., have alleged that they have invented a new and useful improvement in railroad car brakes (they having assigned their right, title, and interest in said improvement to Henry Tanner, of Buffalo, N. Y.), which they state has not been known or used before their application; have made oath that they are citizens of the United States; that they do verily believe that they are the original and first inventors or discoverers of the said improvement, and that the same hath not, to the best of their knowledge and belief, been previously known or used; have paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are therefore to grant, according to law, to the said Henry Tanner, his heirs, administrators, or assigns, for the term of fourteen years from the sixth day of July, one thousand eight hundred and fifty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Thompson and Bachelder in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this 6th day of July, in the year of our Lord one thousand eight hundred and fifty-two, and of the Independence of the United States of America the seventy-seventh.

ALEX. H. H. STUART,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.
[L. S.] THOS. EWBANK,
Commissioner of Patents.

The schedule referred to in these letters patent and making part of the same:

To all persons to whom these presents shall come:

Be it known that we, Lafayette F. Thompson, now or late of Charlestown, and Asahel G. Bachelder, of Lowell, in the county of Middlesex, and State of Massachusetts, have invented a new and useful mode of operating the brakes of railway cars, and we do hereby declare that the same is fully described and represented in the following specification and the accompanying drawings, letters, figures, and references thereof.

Of the said drawings figure 1 denotes a top view of the platform frame of a long car, resting on two truck frames, the same also exhibiting our invention, as applied to the brakes of the wheels of its two truck frames. Figure 2 is a side elevation; and figure 3 a vertical, central, and longitudinal section of the same. In the said drawings A denotes the platform of an eight-wheeled car resting on two truck frames, B, C.

D, D^1, E, E^1, are the wheels of one truck frame, while F, F^1, G, G^1, are those of the other truck frame. H, I, K, L, are the axles, while M, N, O, P are the four sets of brakes applied to the wheels. Each set of brakes is connected to a vibrating lever, Q, R, S, or T, which enables the set of brakes to swing either towards or away from their respective sets of wheels. In the above-mentioned drawings the fulcra of these levers are at their upper ends, as seen at *a*, *a*, etc. Under the middle of the car platform I arrange a lever, A^1, that turns horizontally on a center pin, B^1.

A rod C^2 or D^2, or its equivalent, is jointed to each end of the lever A^1 and is extended from thence towards the end of the car, one rod being extended towards one end, while the other is carried towards the opposite end. Each rod is attached to a cord or chain, b^1, at its end, that is wound on the barrel of a windlass, E^2, or F^2, fixed on the adjacent end of the platform, there being one windlass at each end of the platform.

Between the fulcrum of the lever, A^1, and each rod, C^2, D^2, there is another rod or chain as seen at G^2, H^2, which is jointed at one end of the lever, A^1, and has its other end jointed to the upper arm of one of two secondary levers, I^1, K^1. The lower end of the lever, I^1, is jointed to the set of brakes N, while the lower end of the lever, K^1, is similarly jointed to the set of brakes, O. Rods, M^1, N^1, are respectively jointed to the secondary levers between their lower and upper ends, and extend therefrom and are jointed at their opposite ends to the set of brakes, M, P. Under such circumstances, if a person rotates either windlass, E^1 or F^1, so as to wind up its chain, he will produce a draft on the lever, A^1, that will cause all the brakes to simultaneously close down upon their respective sets of wheels.

From the above it will be seen that a brakeman at either end of the car by simply turning the windlass at such end can simultaneously operate or make bear against their wheels all the sets of brakes. Our improvement can readily be applied to sets of brakes arranged between the wheels, as well as to those where the brakes clasp each wheel on its two opposite sides.

The principle of arresting or retarding the progress of two or more cars while in motion on a railway by the momentum of one or more of them being made to act on the friction brakes of said cars through the intervention of any suitable mechanism combined with the bumpers and the brakes, or the combination of the brakes and bumpers, and a mechanism that will enable the momentum of one or more of the cars, acting against the bumpers, to force the brakes against the wheels, is not herein claimed; nor is it herein claimed to apply such momentum for such
18 purpose by a mode wherein the brake apparatus is so combined with the axle of one of the wheels by means of a fast pulley on such axle, an endless belt passing around such pulley, and a loose pulley on another axle or shaft, a clutch applied to such loose pulley and the second axle or shaft, whereby it may be made to rotate by the rotation of the axle of the wheels, and finally a mechanism or apparatus connecting the second shaft with the brakes of one or both trucks of a car, and made to so operate when the loose pulley is clutched to its shaft as to cause

the brakes to be forced or drawn against the wheels, for such mode (it being that invented by George S. Griggs, and patented December 31st, 1839) of causing the momentum to operate to arrest the velocity of a car or train of cars differs essentially from the invention hereinbefore set forth and represented in the accompanying drawings for the friction of the wheels on the rails and the momentum of the moving carriage is employed to put in motion machinery that is brought into action on the brakes, or caused to act on them when connected with the rotating pulley, put in motion by the pulley of the axle of the wheels, the attendant or brakeman only performing the office of moving the sliding part of the clutch. But what is claimed by us is to so combine the brakes of the two trucks with the operative windlasses or their equivalent at both ends of the cars by means of the vibrating lever, A[1], or its equivalent, or mechanism essentially as specified, as to enable the brakeman, by operating either of the windlasses, to simultaneously apply the brakes of both trucks, or bring or force them against their respective wheels, and whether he be at the forward or rear end of the car.

In testimony whereof we have hereunto set our signatures this eighth day of April, A. D. 1852.

A. G. BACHELDER.
LAFAYETTE F. THOMPSON.

Witnesses:
DANIEL S. RICHARDSON.
NAHUM LEONARD, Jr., (to A. G. Bachelder.)
P. C. TRUMAN.
MILOW C. MCCLURE (to Lafayette F. Thompson.)

19 SCHEDULE C.

Whereas upon the petition of George O. Way, of Claremont, Minnesota, administrator of the estate of Layfayette F. Thompson, deceased, and Asahel G. Bachelder, of Lowell, Massachusetts, for the extension of the patent granted to Henry Tanner, assignee of said Thompson and Bachelder, July 6, 1852, the undersigned, in accordance with the 18th section of the act of Congress, approved the 4th day of July, 1836, entitled "An act to promote the progress of the useful arts and to repeal all acts and parts of acts heretofore made for that purpose," and the act approved the 27th day of May, 1848, entitled "An act to provide additional examiners in the Patent Office," and for other purposes, did on this 5th day of July, 1866, decide that the said patent ought to be extended:

Now, therefore, I, Thomas Harland, Acting Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend the said patent, and certify that the same is hereby extended, for the term of seven years from and after the expiration of the first term, viz, from the 6th day of July, 1866, which certificate being duly entered of record in the Patent Office the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years.

And it appearing, from the evidence on file in this office, that the original of said patent cannot now be produced, it is directed that this certificate of extension be entered on a certified copy of said patent.

In testimony whereof I have caused the seal of the Patent Office to be hereunto affixed this 5th day of July, 1866, and of the Independence of the United States the ninety-first.

[L. S.] THOMAS HARLAND,
Acting Commissioner.

20 SCHEDULE D.

Whereas letters patent were granted to Henry Tanner, of Buffalo, county of Erie, and State of New York, by the United States Government, bearing date July 6, 1852, for an improvement in a railroad car brake on an application made therefor by L. F. Thompson and A. G. Bachelder, of Massachusetts, and duly assigned to the said Tanner; and

Whereas Thomas Sayles, of Lansingburg, in the State of New York, has this day purchased of the said Henry Tanner all his remaining right, title, and interest in and to said patent for said improvement in railroad car brakes for the unexpired term thereof, and for any extension that may be granted therefor, excepting the following reserved territory and railroad corporations, to wit:

All of the States of Ohio, Indiana, and Illinois, excepting the Illinois Central Railroad, which is hereby sold to said Sayles, and reserving unsold, further, the Michigan Central Railroad, and the Michigan Southern and Northern Indiana Railroad, and the Ohio and Mississippi Railroad, and the Louisville and Nashville Railroad, the horse railroad round the Ohio Falls, from Louisville to Portland, about three miles, more or less, and Louisville and Frankfort Railroad. Also the Hudson River Railroad; also the New York Central Railroad; also Rensselaer and Saratoga Railroad; also Saratoga and Washington Railroad; also the New York and New Haven Railroad; also New York and Harlem Railroad; also Housatonic Railroad; also Baltimore and Ohio Railroad; also Baltimore and Susquehanna Railroad; also Elmira and Canandaigua Railroad; also Canandaigua and Niagara Falls Railroad; also Buffalo and State-Line Railroad; also Fitchburg Railroad; also Boston and Worcester Railroad; also Western Vermont Railroad; also Cheshire Railroad; also the Concord Railroad; also the Troy and Boston Railroad; also the Worcester and Nashua Railroad; also the Eastern Railroad; also the Boston and Maine Railroad; also the Canal Railroad; also the South Shore Railroad; also the Richmond and Petersburg Railroad; also the Vermont Valley Railroad; also the Portland, Saco and Portsmouth Railroad; also Boston and Lowell Railroad; also Boston and Providence Railroad; also the Old Colony Railroad; also the Providence and Worcester Railroad; also the New London, Wilimantic and Palmer Railroad; also the Stonington and Providence Railroad; also the New Haven, Hartford, and Springfield Railroad; also the Buffalo and New York City Railroad; also the Buffalo, Corning, and New York Railroad; also the Erie and Northeast Railroad; and has paid me the just and full sum of twenty-five thousand dollars, for the territory hereby sold, the receipt whereof is hereby acknowledged before the delivery of this deed:

Now know, therefore, all men by these presents, that I, the said Henry Tanner, have sold, and by these presents do hereby sell, assign, transfer, and set over to the said Thomas Sayles all my right, title, and interest and claim whatsoever, which I have, or may have, in and to said invention and patent, and any extension thereof that may hereafter be
21 granted, excepting the territory above reserved, by reason of said letters patent or otherwise; giving and granting to the said Sayles and his legal representatives the full power to make, use, vend, and sell to others to make, use, and vend the said invention, in all cases as fully and freely as I might or could have done had this bargain and sale not have been made; and the said Henry Tanner doth hereby covenant to and with the said Thomas Sayles, that he is now the lawful owner and holder of the said letters patent, and that he has not sold to any person,

or persons, whomsoever, or to any corporations, any interest in said letters patent, or in anywise to vend the improvement aforesaid, except as herein above mentioned.

Witness my hand and seal at the city of Albany, this thirteenth day of July, A. D. 1854.

HENRY TANNER. [SEAL.]

In presence of—
A. EMIGH.

SCHEDULE E.

Know all men by these presents that I, Henry Tanner, of Buffalo,, Erie County, New York, for and in consideration of five thousand dollars, to me in hand paid by Thomas Sayles, of Lansingburgh, Rensselaer County, New York, have sold, and by these present do sell, assign, transfer and set over to the said Sayles, all the right, title, interest and claim which I have or may have, in or to any and all damages and profits and right of action for the same, either at law or in equity, growing out of the unlawful use or manufacture or vending, by any person or persons or company or companies, whether incorporated or otherwise, of the invention covered by letters patent of the United States granted to me, said Tanner, on the 6th day of July, 1852, for an improvement in railroad car brakes, so far as said damages and profits have not been settled for; and I do hereby authorize said Sayles to bring and prosecute all actions and suits, whether at law or in equity, which he may deem proper, and either in my name or otherwise, to recover such damages and profits but at his costs and charges, and for his own benefit and profit.

Witness my hand and seal this 23d day of January, 1855.

HENRY TANNER. [SEAL.]

Witnesses:
SAM. BLATCHFORD.
B. W. GRISWOLD.

(Endorsed:) Filed Dec. 9, 1878. Wm. H. Bradley, cl'k.

22 Afterwards, to wit, on the 2d day of January, A. D. 1879, said defendant, by its solicitor, filed in said clerk's office its demurrer to the bill of complaint in said entitled cause, which said demurrer is in the words and figures following, to wit:

Demurrer to bill of complaint.

23 United States circuit court, northern district of Illinois. In chancery.

THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company *ads.* THOMAS SAYLES.

The demurrer of the Lake Shore and Michigan Southern Railway, defendant, to the bill of complaint of Thomas Sayles, complainant.

This defendant by protestation, not confessing all or any of the matters and things in the said complainant's bill contained, to be true, in

such manner and form as the same are therein set forth and alleged, does demur to the said bill, and for cause of demurrer shows that the said complainant has not by his said bill made such a case as entitles him, in a court of equity, to any discovery from this defendant, or any relief against this defendant, as to the matters contained in the said bill, or any of such matters; and that any discovery which can be made by this defendant, touching the matters complained of in the said bill, or any of them, cannot be of any avail to the said complainant for any of the purposes for which a discovery is sought against this defendant by the said bill, nor entitle the said complainant to any relief in this court touching any of the matters therein complained of.

And for cause of demurrer showeth:

First. That the complainant's said bill of complaint, in case the same were true, which this defendant in no wise admits, contains not any matter of equity whereon this court can ground any decree, or give the complainant any relief or assistance as against this defendant.

Second. That the complainant is not entitled, upon said bill, to the relief prayed for, because he had a plain, adequate and complete remedy at law.

24 Third. As to so much of said bill as alleges infringement by the defendant of said letters patent, at any time during the original term thereof, and prays for a discovery during that time, and for all gains and profits then made by defendant, and for the damages then suffered by the plaintiff, that all claims of the plaintiff therein mentioned, that is to say, all claims for causes accruing during any part of said original term, are barred by the provision respecting the limitation of actions contained in section 55 of the act of Congress approved July 8th, 1870, respecting patents.

Fourth. As to so much of said bill as alleges infringement by defendant of said letters patent at any time prior to July 7th, 1865, and prays for a discovery during that time, and for all gains and profits then made by defendant, and for the damages then suffered by plaintiff, that all claims of the plaintiff therein mentioned, that is to say, all claims for causes accruing prior to said last mentioned date, are barred by the statute of Illinois of February 10th, 1849, respecting the limitation of actions, and by the other limitation laws of the said State.

25 Wherefore, and for divers other good causes of demurrer appearing in said bill, this defendant demurs thereto, and prays the judgment of this honorable court whether it shall be compelled to make any further and other answer to said bill; and humbly prays to be dismissed from hence, with its reasonable costs in this behalf sustained.

GEORGE PAYSON,
Solicitor for Defendant, and of Counsel.

I do hereby certify that, in my opinion, the above demurrer is well founded in point of law.

GEORGE PAYSON,
Solicitor for Defendant, and of Counsel.

Oath waived by complainant.

(Endorsed:) Filed Jan'y 2d, 1879. Wm. H. Bradley, clerk.

26 Afterwards, to wit, on the 14th day of January, A. D. 1879, in the December term, A. D. 1878, of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

THOMAS SAYLES
vs.
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company. } In chancery.

Now come the parties by their solicitors, and by their agreement the demurrer of the defendant to the complainant's bill of complaint herein is submitted to the court, and the same now coming on for hearing, and the court, after hearing the same and the arguments of counsel, and being now fully advised in the premises, sustains said demurrer and dismisses the bill of complaint herein for want of equity.

It is therefore considered, adjudged, and decreed by the court that this cause be dismissed, and that the defendant do have and recover of and from said complainant its costs and charges about its defence in this behalf expended, amounting to the sum of thirty-eight dollars, and that execution issue therefor.

And now comes the complainant and prays an appeal to the Supreme Court of the United States herein, which is allowed by the court
27 upon said complainant giving bond in the penal sum of five hundred dollars, with security to be approved by the court.

And afterwards, to wit, on the 25th day of January, A. D. 1879, said complainant, by his solicitor, filed in said clerk's office his bond in appeal in said entitled cause; which said bond is in the words and figures following, to wit:

Appeal bond.

Circuit court of the United States for the northern district of Illinois.
In equity.

THOMAS SAYLES
vs.
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company.

Know all men by these presents, that we, Thomas Sayles, as principal, and Albert H. Walker, as surety, are held and firmly bound unto The Lake Shore and Michigan Southern Railway Company in the penal sum of five thousand dollars to be paid to the said Lake Shore and Michigan Southern Railway Company, to which payment, well and truly to be made, the said Thomas Sayles and Albert H. Walker bind themselves, their heirs, executors, and administrators jointly, severally, and firmly by these presents. In witness whereof the said Thomas Sayles and Albert H. Walker have hereunto set their hands and seals this twenty-fifth day of January, A. D 1879.

28 The condition of this obligation is such, that whereas the above bounden Thomas Sayles hath taken an appeal to the Supreme Court of the United States to reverse the decree rendered against him in the above entitled cause by the circuit court of the United States for the northern district of Illinois, on the fourteenth day of January, A. D. 1879: Now, therefore, the condition of this obligation is such that if the said Thomas Sayles shall prosecute his said appeal to effect without

delay and answer all costs if he shall fail to make his appeal good, then this obligation to be void, but otherwise to remain in full force.

THOMAS SAYLES. [SEAL.]
ALBERT H. WALKER. [SEAL.]

Approved:

H. W. BLODGETT, *Judge.*

(Endorsed:) Filed Jan'y 25, 1879. Wm. H. Bradley, cl'k.

29 NORTHERN DISTRICT OF ILLINOIS, *set:*

I, William H. Bradley, clerk of the circuit court of the United States for the northern district of Illinois, do hereby certify the above and foregoing to be a correct and complete transcript of the record of all the proceedings had in said court in the cause wherein Thomas Sayles is the complainant and The Lake Shore and Michigan Southern Railway Company is the defendant, as the same appears from the files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in Chicago, in said district, this 14th day of February, A. D. 1879, and of our Independence the 103d year.

[SEAL.] WM. H. BRADLEY, *Clerk.*

(Indorsement on cover:) No. 739. Thomas Sayles, appellant, vs. The Lake Shore and Michigan Southern Railway Company. N. Illinois C. C. U. S. Filed 19th April, 1879.